

## SECTION I

## The Task Force: Its Composition, Charge, and Process

This section of the report contains a discussion of the history of the Probation Services Task Force (task force), its charge, subcommittee structure, and resources.<sup>12</sup>

### *HISTORICAL AND LEGISLATIVE BACKGROUND*

The task force arose out of ongoing discussions between the Judicial Council and the California State Association of Counties (CSAC). The Judicial Council and CSAC have shared a longstanding interest in evaluating probation structures and services in California. Several legislative efforts to alter the chief probation officer (CPO) appointment and removal process<sup>13</sup> highlighted the need to form a task force to examine these issues in a comprehensive manner. Structural changes resulting from the passage of the Lockyer-Isenberg Trial Court Funding Act<sup>14</sup> also pointed to the need for an examination of probation in California.

From the county perspective, it is important to note the increased tension brought to bear by the 1997 Trial Court Funding Act, which enacted a major restructuring and realignment of fiscal and operational responsibilities for California's trial courts. Specifically, this act transferred financial responsibility for the trial courts from counties to the state and began a process of defining and separating the functions of courts and counties. The restructuring exacerbated, in some counties more than others, the preexisting imperfections in the probation governance structure. Probation and, up to the passage of the Trial Court Funding Act, the courts have historically been funded at the county level. Today, overall management and budgetary responsibility for probation remains with the counties, but, in

#### Key Factors in the Creation of the Task Force

- ➔ Recognized need to examine governance structure;
- ➔ Historic underfunding of probation departments and increasing demand for services;
- ➔ Joint court/county interest in evaluating probation services in California; and
- ➔ Restructuring following 1997 Trial Court Funding Act.

<sup>12</sup> This report, working documents, and appendixes can be found at the Probation Services Task Force Web site at <[www2.courtinfo.ca.gov/probation](http://www2.courtinfo.ca.gov/probation)>.

<sup>13</sup> The most recent legislative proposals—none of which has been enacted—include Assem. Bill 1303 (Thomson, 1999), Assem. Bill 1519 (Floyd, 2000), Assem. Bill 765 (Maddox, 2001), and Sen. Bill 1361 (Brulte, 2002). As introduced, AB 1303 would have amended Pen. Code, § 1203.6, by investing the board of supervisors with the authority to appoint and remove the CPO where authorized by local ordinance or by county charter. AB 1519, as introduced, would have repealed Welf. & Inst. Code, §§ 270 and 271, and would have amended Pen. Code, §§ 1203.5 and 1203.6, to make the CPO an elected official. AB 1519 subsequently was amended to establish an appointment process through a seven-member multidisciplinary commission and to set forth minimum experience and educational standards for the CPO. AB 765 also would have amended Pen. Code, §§ 1203.5 and 1203.6, and placed the CPO appointment authority with a six-member selection committee. It, too, would have established minimum experience and employment standards for the CPO and repealed Welf. and Inst. Code, §§ 270 and 271. SB 1361 would have invested the board of supervisors in Riverside and San Bernardino counties with the authority to appoint and remove the CPO.

<sup>14</sup> Stats. 1997, ch. 850.

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the vast majority of counties, the appointment authority for the CPO resides with the court, a state-funded entity. While examples of counties in which collaborative partnerships between the judicial and executive levels of government exist, other counties have struggled with budgetary, management, and liability issues. At a minimum, county representatives sought through the task force process greater clarity with respect to governance issues and a more rational connection among fiscal responsibility, oversight, and authority.

Furthermore, as confirmed by task force survey results, probation departments endured significant financial constraints in the previous decade. Funding has eroded into a patchwork of support based in many instances on grant funding—circumstances that led many departments to make difficult, but reasoned, decisions to pursue programs for which funding was available. Consequently, service levels vary greatly by county, and because juvenile prevention and intervention programs have enjoyed more sustained—albeit not necessarily sufficient for statewide needs—legislative and state budget support, adult probation services in many counties suffered.

In early 2000, the Judicial Council and CSAC mutually concluded that a multidisciplinary task force to examine probation issues was the optimal forum for achieving meaningful review and for recommending potential system reforms. The task force set out to examine the current status of probation with a view toward improving the delivery of services, securing more regular and stable funding sources for both adult and juvenile programs, and establishing more sure footing for the system as a whole for the coming years.

### *TASK FORCE COMPOSITION*

In August 2000, Chief Justice Ronald M. George appointed the 18 members to the Probation Services Task Force and, to serve as nonvoting chair, an appellate justice. The Chief Justice made appointments based on nominations by the following organizations: CSAC; the Judicial Council; the Chief Probation Officers of California (CPOC); and the California Probation, Parole and Correctional Association (CPPCA). Representation on the task force was divided evenly among the courts, counties, and probation organizations. Members were selected from different regions of the state and from different county types (urban, suburban, and rural) to ensure balanced representation.<sup>15</sup> The task force composition is detailed in table 3, including the number of appointments and criteria used by each appointing entity.<sup>16</sup>

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<sup>15</sup> Several members, for various reasons, were unable to serve on the task force for the entirety of the task force's nearly three-year study. The process set forth above was followed to select replacements and ensure continued balanced representation.

<sup>16</sup> A list of task force members and their respective biographies is included in appendix A and at the task force Web site.

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Table 3. Task Force Member Appointment Criteria

Representative	Number of Appointments	Appointed By	Criteria
Nonvoting chair	1	Judicial Council	Appellate justice
County	6	CSAC	Urban, suburban, and rural; north, central, and south
Court	6	Judicial Council	Urban, suburban, and rural; north, central, and south
Probation chiefs	3	1: Judicial Council 1: CSAC 1: CPOC	Urban, suburban, and rural; north, central, and south
Probation officers	3	1: Judicial Council 1: CSAC 1: CPPCA	Urban, suburban, and rural; north, central, and south

## TASK FORCE CHARGE

The task force's charge was broad and complex. It directed the members to identify and evaluate issues as diverse as funding, services, appointment practices, organizational structures, and the relationship between probation and the courts.

### The Charge of the Probation Services Task Force

*The task force's charge was to (1) assess the programs, services, organizational structures, and funding related to probation services provided by counties to the courts, probationers, and the public and (2) formulate findings and make policy recommendations to the Judicial Council, CSAC, the Legislature, and the Governor following this assessment. The broad issues relating to probation under examination include the following:*

- Identifying and evaluating practices and options for funding probation services;
- Identifying the nature and scope of probation services provided by counties to the courts, probationers, and the general public;
- Identifying and evaluating practices and options for the appointment and accountability of the CPO;
- Identifying and evaluating various organizational structures for adult and juvenile probation services;
- Identifying and evaluating practices of other jurisdictions with regard to the range and level of probation services, organizational structure, and funding; and
- Identifying the appropriate relationship between probation and the courts as it relates to court services and alternatives for achieving the preferred outcome.

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The task force addressed each of the issues delineated in the charge. It used the charge as the departure point for each of its outreach roundtables, which are discussed more fully later in this section, and sought input on any and all of the broad policy areas. What became clear through the task force's work is that the issues set out in its charge are fundamentally interrelated and at the same time vexingly complex. A discussion of services necessarily triggers consideration of fiscal matters, while appointment practices are clearly linked to organizational structures. The sections that follow describe the depth of the task force examination and point out the areas that require additional study.

### *TASK FORCE PROCESS*

To carry out its charge, the task force convened public meetings on a regular basis to discuss ongoing work and develop findings and recommendations. At these meetings, national experts were brought in for consultation as appropriate. Outreach strategies aimed at gathering input from those delivering and receiving probation services were developed to educate the task force regarding probation and to allow inclusion of as many stakeholder groups as possible in the task force process.

During the initial 15 months of study, the task force undertook much of its work through two subcommittees: the Relationship of Probation to Court and County Subcommittee (the governance subcommittee), which examined governance issues, and the Services and Caseload Standards Subcommittee (the services subcommittee), which examined issues related to probation services. The subcommittees met frequently both in person and via conference call during and outside of the full task force meetings to review information and develop proposals for full task force consideration. After initial review and development of ideas by the individual subcommittees, and using data from national experts, consultation with other jurisdictions, and stakeholder input, the task force as a whole reviewed and discussed subcommittee suggestions before developing recommendations.

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As detailed in table 4, the task force met over a three-year period at approximately bimonthly intervals. All meetings were open to the public, and notices were posted on the task force Web site.<sup>17</sup> Based on available information and on input gathered through outreach efforts, task force strategy was reviewed and altered as necessary. Nationally recognized experts in the fields of probation, corrections, and other relevant areas were invited to task force meetings to present information regarding both governance and service issues.<sup>18</sup>

Table 4. Dates and Locations of Task Force Meetings

Date	Location
September 29, 2000	San Francisco
October 26–27, 2000	San Francisco
January 11–12, 2001	San Francisco
March 22–23, 2001	San Francisco
May 17–18, 2001	Los Angeles
June 22, 2001	Sacramento
July 19–20, 2001	San Francisco
September 20–21, 2001	San Francisco
November 15–16, 2001	San Francisco
January 3, 2002	Conference call
March 8, 2002	San Francisco
May 2–3, 2002	San Francisco
June 7, 2002	Sacramento
September 12–13, 2002	San Francisco
November 7, 2002	San Francisco
February 7, 2003	Burbank
May 9, 2003 (scheduled)	Conference call
June 6, 2003 (scheduled)	Conference call

<sup>17</sup> The agenda and minutes of each task force meeting can be found at the task force Web site. Information from the subcommittee meetings was presented to the task force and is included in the full task force's minutes.

<sup>18</sup> Despite the fact that task force members examined innovations in operational structures in five states—Arizona; Texas; Deschutes County, Oregon; New Jersey; and Iowa—it became clear that none of the models was immediately transferable to California.

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### *INFORMATION RESOURCES PROVIDED TO THE TASK FORCE*

Before the appointment of task force members, the Administrative Office of the Courts (AOC) engaged the services of two consultants to obtain background information on probation both nationally and in California. Mr. Carl Wicklund, executive director of the American Probation and Parole Association (APPA), drafted white papers on adult and juvenile probation,<sup>19</sup> which provided key demographic and statistical information regarding the delivery and structure of probation services nationally.<sup>20</sup> Simultaneously, Mr. Alan Schuman, corrections management consultant, conducted site visits in July and August 2000 to six probation departments for the purpose of establishing baseline information on the status of probation in California. The AOC selected six counties for Mr. Schuman's preliminary snapshot study to collect information from a representative cross-section of California counties. More than 280 people were interviewed during the visits to the snapshot counties, which included Fresno, Glenn, Los Angeles, Placer, Santa Clara, and Santa Cruz. Mr. Schuman prepared reports on adult and juvenile probation for each of the six counties. Both the snapshot study and the national white papers followed an examination of criterion established by Mr. Wicklund and Mr. Schuman. The consultants presented their findings to the task force at its first meeting in October 2000.<sup>21</sup>

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<sup>19</sup> American Probation and Parole Association, *Adult Probation in the United States: A White Paper*, prepared for the Probation Services Task Force, California Administrative Office of the Courts (Sept. 2000) <<http://www2.courtinfo.ca.gov/probation/reference.htm>>. Hereafter referred to as *Adult Probation White Paper*. American Probation and Parole Association, *Juvenile Probation in the United States: A White Paper*, prepared for the Probation Services Task Force, California Administrative Office of the Courts (Sept. 2000)

<<http://www2.courtinfo.ca.gov/probation/reference.htm>>. Hereafter referred to as *Juvenile Probation White Paper*. The *Adult Probation White Paper* and the *Juvenile Probation White Paper* are available at the task force Web site.

<sup>20</sup> A. Schuman, *Executive Summary: California Six County Probation Sites*, prepared for the Probation Services Task Force, California Administrative Office of the Courts (Sept. 2000) <<http://www2.courtinfo.ca.gov/probation/reference.htm>>. Hereafter referred to as *Six County Executive Summary*. This document is attached at appendix B; the individual county reports are available at the task force Web site. Alan Schuman's biography is included in appendix B.

<sup>21</sup> Mr. Schuman also participated in task force proceedings during 2001 as a consultant. He brought to the task force discussions a vast history and experience in the corrections field, and he offered an important perspective on the California probation system that was informed by his six county site visits during the snapshot study.

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### Snapshot Study: Identified Areas of Common Concern

*Results of the snapshot study clearly indicated that certain issues and areas of concern were of importance to all or most of the probation departments and would bear greater examination by the task force. These areas include, but are not limited to, the following:*

- Monitoring and evaluation processes for probation services;
- Management information systems;
- Probation funding sources and long-term implications of reliance on grant funding;
- Automated and validated risk/needs tools;
- Probation supervision workload standards;
- Specialized court services;
- Staff development and training;
- Partnership with the judiciary;
- Partnership with other collaborative county departments; and
- Probation's status in the community.

The national white papers and snapshot study results provided the task force with critical background information and reference material for the course of its examination. At its first meeting, using the charge and these resource materials as a guide, the task force identified issues to explore and drafted a preliminary work plan. The task force also used these resources to inform its discussion during the course of its work.

The task force anticipated concluding its work in the fall of 2001, with a final report and recommendations issued to the participating entities, the Governor, and the Legislature in late 2001. As the task force began its work, it recognized the breadth and complexity of the issues that confronted it. Furthermore, task force members, while considerably informed by the white papers and snapshot study results, learned that comprehensive data and statistics on probation services in California were not readily available to advance and strengthen the examination process. Early in its process, the task force recognized that although it would be able to make substantial progress toward addressing the numerous issues in the charge, more time would be necessary to fully examine the complex issues presented in the charge. Accordingly, the task force undertook an additional 18 months of study, concluding in June 2003, to further pursue a California Probation Model that conforms to its fundamental principles.

*OUTREACH TO STAKEHOLDERS*

In an effort to include as many stakeholders as possible in its examination, the task force carried out extensive outreach efforts. These efforts included a statewide stakeholder survey, stakeholder roundtable discussions at multiple venues throughout the state, and

Task force outreach efforts included a statewide stakeholder survey, stakeholder roundtable discussions at multiple venues throughout the state, and roundtable discussions with probationers. The task force reached approximately 460 stakeholders and more than 150 adult and juvenile probationers through these efforts.

roundtable discussions with probationers.<sup>22</sup> The task force reached approximately 460 stakeholders and more than 150 adult and juvenile probationers through these efforts. Results of these outreach efforts were provided to task force members on an ongoing basis. The information from the stakeholder survey, roundtables, and probationers informed the task force, educating members about probation throughout California and providing a means of uncovering and evaluating issues for the task force to consider. These

outreach efforts also allowed stakeholders not represented on the task force a way to participate in the process and gave the many parties involved in the probation system an opportunity to provide input.

*Stakeholder Survey*

In January 2001, the task force distributed a written survey for probation stakeholders in all 58 counties. The response rate was excellent, with 141 surveys from 56 counties returned.<sup>23</sup> The survey results provided information from the entire spectrum of the California probation experience, including courts, counties, and probation (chiefs and line staff) as well as prosecutors and defense attorneys. The input supplied the task force with a broad range of first-hand information regarding the views of participants and stakeholders.<sup>24</sup> This information was examined by the task force to gain a broad understanding of probation and probation services in California rather than to learn specific facts about any one probation department.

The survey instrument was distributed to potential respondents across the probation system. Certain stakeholder groups received only those portions of the survey that they were sufficiently positioned to answer. For example, only the CPOs received questions regarding agency staffing and workload, since they constituted the stakeholder group best equipped to provide accurate and updated information on staffing data. Table 5 shows the distribution of the survey to the selected stakeholders:

<sup>22</sup> Results of the outreach efforts are attached at appendixes C, D, and E, respectively, and are available at the task force Web site.

<sup>23</sup> Of the 141 responses, 51 were from CPOs, 19 were from county representatives (board of supervisor members or county administrative officers), 44 were from court representatives (judges or court executive officers), 11 were from prosecutors, 12 from defense attorneys, and 4 from a solicitation sent to 100 randomly selected DPOs.

<sup>24</sup> The Stakeholder Survey and Stakeholder Survey Results are contained in appendix C.



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Table 5. Stakeholder Survey Distribution

	Board of Supervisors (BOS)/County Executive or Administrative Office	Court Presiding Judge (PJ)/Court Administrator (CA)	Chief Probation Officer (CPO)	Probation Officer (PO)*	District Attorney (DA)	Public Defender (PD)
Part 1: Agency Staffing and Workload			✓			
Part 2: Probation Services	✓	✓	✓	✓	✓	✓
Part 3: Goals and Priorities of Probation Departments	✓	✓	✓	✓	✓	✓
Part 4: Appointments, Evaluation, and Term of Chief Probation Officer	✓	✓	✓	✓		
Part 5: Opinions about the CPO Appointment System	✓	✓	✓	✓		

\* Sampling of deputy POs through State Coalition of Probation Organizations (SCOPO).

## Stakeholder Roundtables

As a means of opening the task force process to public input during its first phase, the task force and staff organized roundtable discussions with various stakeholders, including judges, county supervisors, probation officers, public defenders, and district attorneys. Approximately 325 stakeholders participated in these roundtable discussions; Table 6 lists the various stakeholder groups, stakeholder events, and the number of stakeholders participating.

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Table 6. Stakeholder Roundtables

Date	Event	Location	Stakeholders	Total Number of Participants at Event	Number of Participants in PSTF Roundtable
12-7-00	Beyond the Bench Conference	Los Angeles	Multidisciplinary dependency-focused conference for judges, court executives, attorneys, social workers, and probation officers	940	65
1-20-01	California Public Defenders' Association Juvenile Conference	Monterey	Public defenders and private defense counsel	250	23
1-26-01	Juvenile Delinquency and the Courts Conference	San Diego	Multidisciplinary delinquency-focused conference for judges, district attorneys, public defenders, probation, community, victims, and social services	550	39
2-1-01	California Judicial Administration Conference	San Diego	Judges, court executives, and administrators	490	28
3-14-01	Chief Probation Officers of California (CPOC) Quarterly Meeting	Sacramento	Chief probation officers	48	48
4-5-01	California State Association of Counties (CSAC) Spring Legislative Conference	Sacramento	County board of supervisor members, county administrative officers, and other county personnel	250	50
4-5-01	Juvenile Law Institute Conference	Costa Mesa	Juvenile court judicial officers	200	24
4-27-01	State Coalition of Probation Organizations (SCOPO) Conference	Bakersfield	Deputy probation officers	17	17
5-18-01	Center for Families, Children and the Courts Family Violence and the Courts Conference	Los Angeles	Multidisciplinary domestic violence stakeholders	400	13
6-7-01	California District Attorneys' Association Conference	Sacramento	District attorneys	18	18
<b>Total Number of Outreach Stakeholders</b>					<b>325</b>

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Table 7 indicates the major themes that emerged during the roundtable discussions, with examples of the general type of comment or content (right-hand column) that was classified under several thematic categories (left-hand column). Table 8 cross-references these major themes (column headings) to stakeholder groups (row headings), with check marks designating which of these themes appeared to be of importance to individual stakeholder groups.<sup>25</sup> The information in these tables should be approached with some caution as it merely reflects a cataloguing of stakeholder input for purposes of showing the reader the breadth of comments raised and may not reflect the totality of issues of concern to stakeholders or demonstrate the weight of concern for a particular issue.

Table 7. Major Themes Raised by Stakeholders during Outreach Efforts

<b>Thematic Category</b>	<b>Examples of General Content for Theme</b>
Caseload	<ul style="list-style-type: none"><li>▪ Caseload levels</li><li>▪ Differences in caseload sizes for specialized programs (e.g., domestic violence or drug courts)</li><li>▪ Banked caseloads</li></ul>
CPO Issues	<ul style="list-style-type: none"><li>▪ Appointment, performance, and evaluation issues</li><li>▪ Relationship of CPO to local judicial and executive branches</li></ul>
DPO Issues	<ul style="list-style-type: none"><li>▪ General employment issues (e.g., training, recruitment and retention, compensation, equipment/arming, attrition to other law enforcement agencies, and retirement)</li></ul>
Facilities	<ul style="list-style-type: none"><li>▪ Conditions of confinement and overcrowding</li><li>▪ Disproportionate minority confinement</li></ul>
Funding	<ul style="list-style-type: none"><li>▪ Need to establish adequate, stable funding source</li><li>▪ Grant funding</li></ul>
Interstate Compact	<ul style="list-style-type: none"><li>▪ Interstate compact for supervision of offenders</li></ul>

<sup>25</sup> A complete compilation of roundtable stakeholder commentary is included in appendix D. Stakeholder responses are the opinion of the speaker and have not been adopted by the task force.

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<b>Thematic Category</b>	<b>Examples of General Content for Theme</b>
Relationships	<ul style="list-style-type: none"> <li>▪ Governance and structural issues (i.e., co-location of adult and juvenile services in a single department)</li> <li>▪ Relation of probation's functions to court and county structures</li> <li>▪ Court and county relations and impact of trial court funding reform</li> <li>▪ Coordination and collaboration among all county agencies involved in probation (e.g., social services and mental health)</li> <li>▪ Statewide coordination of probation departments</li> </ul>
Services	<ul style="list-style-type: none"> <li>▪ Range of services provided by probation</li> <li>▪ Best/promising practices</li> <li>▪ Specialized services for adults versus juveniles</li> <li>▪ Gender-specific services for juveniles</li> <li>▪ Placement options</li> <li>▪ Evaluation and assessment</li> <li>▪ Collaborative efforts with other local agencies (e.g., education, programs for the developmentally disabled, and mental health services)</li> </ul>
Services in Juvenile Hall	<ul style="list-style-type: none"> <li>▪ Need for assessment in juvenile hall</li> <li>▪ Educational and mental health services</li> </ul>
Technology	<ul style="list-style-type: none"> <li>▪ Need for more effective use of technology to monitor and track probationers</li> <li>▪ Integration of technology to improve delivery of services</li> <li>▪ Connectivity with law enforcement, social services, and other local and state agencies</li> </ul>
Vision for Probation	<ul style="list-style-type: none"> <li>▪ Unique dual role of probation</li> <li>▪ Need to educate the public and work on improving the public's perception of probation</li> <li>▪ Need to reexamine how probation has evolved and analyze where probation should be</li> <li>▪ Critical value of and need for probation services in the continuum of justice system services</li> </ul>

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Table 8. Stakeholder Themes

Stakeholder	Caseload	CPO Issues	DPO Issues	Facilities	Funding	Interstate Compact	Relationships	Services	Services in Juvenile Hall	Technology	Vision for Probation
<b>ATTORNEYS</b>											
Attorney (Children in Dependency)							✓	✓			
Attorney, Youth Law Center								✓			
Defense Attorney	✓				✓		✓				
Deputy Public Defender			✓		✓		✓	✓			
District Attorney		✓	✓	✓	✓		✓	✓			✓
Private Defense Counsel			✓								
Public Defender	✓		✓		✓		✓	✓	✓		
Others					✓						
<b>COUNTY</b>											
Supervisors and County Administrative Officers	✓	✓	✓	✓	✓		✓	✓		✓	✓
<b>COURTS</b>											
Judicial Officers	✓	✓	✓	✓	✓		✓	✓			✓
Court Executive Officer		✓	✓		✓		✓	✓			
Court Administration					✓			✓			
Others		✓									✓
<b>PROBATION</b>											
Chief Probation Officer	✓	✓		✓	✓		✓	✓			✓
Probation Management	✓	✓	✓		✓	✓	✓	✓			

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Stakeholder	Caseload	CPO Issues	DPO Issues	Facilities	Funding	Interstate Compact	Relationships	Services	Services in Juvenile Hall	Technology	Vision for Probation
Deputy Probation Officer	✓	✓	✓	✓	✓		✓	✓		✓	✓
Others								✓			

SERVICE PROVIDERS											
Director of Children's System of Care					✓		✓	✓			
Domestic Violence Researcher	✓	✓	✓				✓	✓			✓
Mental Health					✓			✓			
Social Worker								✓			
STATE AGENCIES											
State of California Court- Appointed Special Advocate (CASA) Director		✓									
California Youth Authority					✓		✓	✓		✓	
State Department of Social Services			✓				✓	✓			
OTHERS			✓				✓	✓			

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### *Probationer Roundtables*

Task force members and staff also conducted roundtable discussions with more than 150 adult and juvenile probationers in three counties. Counties were selected demographically to include probationers in rural, suburban, and urban counties in northern, central, and southern California. Despite geographic and demographic differences, adult and juvenile probationers interviewed across the state expressed similar comments. The relationship of the probationer to his or her probation officer seemed to play a pivotal role in the probationer's perception of probation services received.

Over 150 adult and juvenile probationers in three counties were interviewed to elicit their perspectives and experiences as recipients of probation services.

Some of the views and beliefs were broadly held, but other concerns were voiced by only one individual.<sup>26</sup> The paragraphs that follow, which summarize comments and perspectives of the probationers interviewed, reflect only a relatively small sample of probationers statewide and may not be supported by fact or research.

Adult probationers commented on numerous aspects of their experiences in probation, including their preferred treatment programs and the benefits they earn from different services. Most adult probationers indicated that while they did not enjoy being on probation, they believed that they benefited from it. They expressed a preference for specialized treatment programs such as drug court, substance abuse treatment, and batterers' treatment programs, stating that these services were particularly effective. Conversely, adult probationers indicated a dislike for community service obligations, indicating that the terms of these programs are excessive. However, probationers said that they feel a great sense of accomplishment when allowed to participate in community service projects that they believe help their community or that are tied to their crime. Other service projects not directly related to the community or the crime are perceived as busy work. Adult probationers who had also been on probation as juveniles indicated that probation has improved over the years, especially with regard to provision of services and treatment by probation officers.

Adult and juvenile probationers share common perceptions about their experiences in probation despite geographic and demographic differences.

Like adult probationers, juveniles share common perceptions about probation despite geographic and demographic differences. Generally speaking, juvenile probationers would like more family and one-on-one counseling, field trips, programs designed specifically for teenagers, and job/vocational skills training. Individual opinions of programs varied depending on specific experiences, but several recurring program elements were identified by juvenile probationers as being valuable: (1) programs that last 90 days or more appear more effective than short-term programs, (2) small classes

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<sup>26</sup> Probationer roundtable comments are included in appendix E and can be found at the task force Web site.

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and programs are preferred, (3) substance abuse treatment programs as part of residential group homes and juvenile drug court are perceived to be effective, and (4) frequent drug testing appears to serve as a deterrent to the use of drugs. Furthermore, juvenile probationers believe group homes help them learn responsibility, and they suggested that overall the personalities of the program staff and probation officer play a significant role in the effectiveness of any particular program.

### *CONCLUSION*

The task force was the product of discussions between the Judicial Council and CSAC. Both entities recognized a critical need to examine probation governance structure and shared a longstanding interest in evaluating probation structures and services in California. The task force undertook the first comprehensive examination of probation in California and discovered that the state's probation system serves over 415,000 probationers statewide (87,186 juveniles and 328,540 adults)<sup>27</sup>; contains different combinations of operational structures in each of the 58 counties; and lacks a single, comprehensive source of probation data. The task force gathered a great deal of information from the various outreach methods described in this section: written survey responses, stakeholder roundtable input, and adult and juvenile probationer dialogues. The contributions of consultants and other invited speakers before the task force also advanced the task force's examination.

The task force made tremendous progress in (1) outlining the scope of the challenges that face the probation system in California and (2) discovering that, despite many examples of successful programming and collaboration, the structure of probation contained several deficiencies that warrant improvement, and (3) making significant findings and recommendations for a statewide approach to probation that seeks to benefit all who come in contact with the system.

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<sup>27</sup> Bureau of Criminal Information and Analysis, Criminal Justice Statistics Center, Juvenile Probation Caseload, 2001 as of February 3, 2003; Department of Justice Statistics table 7: Adult Probation Caseload and Actions, 2001. <[http://justice.doj.ca.gov/cjsc\\_stats/prof01/00/7.htm](http://justice.doj.ca.gov/cjsc_stats/prof01/00/7.htm)> (as of Jan. 2003).



## SECTION II

### Fundamental Principles

Early in its examination, the task force recognized that members held different ideas and assumptions about probation relative to the two core areas of study: governance and services. To guide discussion, focus the process, and enhance communication the task force established fundamental principles. The development of these principles represented a key milestone in the task force effort, giving the members a basis for examining the current delivery of probation services and for evaluating various alternative probation system models. These principles served as a basis for building consensus in developing its recommendations.

Numerous principles were presented and discussed by the task force. The five fundamental principles listed here were agreed to by a consensus of the task force and ultimately were adopted:

**PRINCIPLE 1.** *Authority over and responsibility for the conduct, support, funding, oversight, and administration of probation services, including the appointment of the CPO, must be connected.*

**PRINCIPLE 2.** *Courts and counties should develop and implement partnerships to administer probation departments and work collaboratively to ensure appropriate levels of services, support, funding, and oversight.*

**PRINCIPLE 3.** *Probation services should be administered primarily at the local level.*

**PRINCIPLE 4.** *Standards with measurable outcomes are necessary.*

**PRINCIPLE 5.** *Adult and juvenile probation services should be administered in a single department.*

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## SECTION III

## Probation Past

This part of the report provides background information on the creation of probation in general and presents a historical account of the development of probation in California.

#### *THE FUNDAMENTALS OF PROBATION*

Probation is a judicially imposed suspension of sentence that attempts to treat and rehabilitate offenders while they remain in the community under the supervision of the probation department.<sup>28</sup> Probation has many advantages over incarceration. The cost of probation represents a small fraction of the expense of institutional commitment. In its research brief on probation in California, the California Institute for County Government reports that annual probation services per probationer cost approximately \$3,060.<sup>29</sup> These costs represent a small percentage (12 percent) of the \$25,607 required to keep an offender in prison for one year.<sup>30</sup> Furthermore, adult and juvenile probationers benefit from remaining in their communities and their homes. Adult probationers who are supervised in their community are better able to support themselves and their family, which increases their ability to pay restitution to the victim of the offense and continue to contribute to society. Juveniles who remain in the community maintain a family connection and family support, which often enhances their overall ability to benefit from services. Perhaps most important, with the aid of the court and probation officer, the probationer may be rehabilitated through the use of community resources. The imposition of conditions appropriate to the offender and the crime also seeks to discourage probationers from committing new offenses.

Probation is a judicially imposed suspension of sentence that attempts to treat and rehabilitate offenders while they remain in the community under the supervision of the probation department.

Probation in the United States has a relatively short history, dating from the first half of the nineteenth century. John Augustus, a Boston shoe cobbler, is credited with being the father of probation. In 1841, at a time when sending an offender to prison was the preferred means of dealing with violations of the law, Augustus persuaded the Boston Police Court to release an adult drunkard into his custody rather than committing him to

<sup>28</sup> Probation is distinguished from parole based on the jurisdiction and timing of offender supervision. Probation officers are involved with alleged offenders and offenders supervised in the community. Parole agents have jurisdiction over offenders following release from a state facility such as the California Department of Corrections (adults) or the California Youth Authority (juveniles).

<sup>29</sup> J. Worrall et al., *Does Probation Work? An Analysis of the Relationship between Caseloads and Crime Rates in California Counties*, *supra*.

<sup>30</sup> Office of the Attorney General, Criminal Justice Statistics Center, p. 43 <<http://caag.state.ca.us/cjsc/publications/misc/cinc/5cost.pdf>> (as of Jan. 27, 2003).

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prison. Augustus's efforts at reforming his first charge were successful, and he soon convinced the court to release other offenders to his supervision. In 1843, Augustus broadened his efforts to children.<sup>31</sup>

The legal basis for early probation efforts was the authority of the court, under common law, to suspend sentence and allow the convicted offender to remain at liberty upon condition of good behavior. It should be noted that the work of this first unofficial probation officer was controversial. Augustus's efforts were resisted by police, court clerks, and jailers, who were paid only when offenders were incarcerated.<sup>32</sup>

By 1869, the Massachusetts Legislature required a state agent to be present if court actions were likely to result in the placement of a child in a reformatory, thus providing a model for modern caseworkers. The agents were to protect the child's interests, investigate the case before trial, search for other placement options, and supervise the plan for the child after disposition. Massachusetts passed the first probation statute in 1878, mandating an official probation system with salaried probation officers. After Massachusetts's example, other states quickly followed suit, with 33 states enacting probation legislation by 1915.<sup>33</sup> By 1956, all states had adult probation laws.<sup>34</sup>

### *PROBATION IN CALIFORNIA*

California authorized a system of adult and juvenile probation in 1903.<sup>35</sup> During the past 25 years, the budgets and programs of county probation departments have undergone numerous transitions owing to adjustments in local government and judicial priorities, changes in funding streams, and state and federal legislative actions. The history of probation in California that follows includes a review and timeline of significant legislative and budgetary events affecting probation services at the state level and service trends that have resulted.

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<sup>31</sup> Juvenile Probation White Paper, p. 1.

<sup>32</sup> A. R. Klein, "The Curse of Caseload Management" (1989) 13(1) *Perspectives* 27.

<sup>33</sup> T. Ellsworth, "The Emergence of Community Corrections," in T. Ellsworth (ed.), *Contemporary Community Corrections* (Prospect Heights, Ill.: Waveland Press, 1996).

<sup>34</sup> J. Petersilia, "Probation in the United States (Part 1)" (1998a, spring) 22(2) *Perspectives* 30–41.

<sup>35</sup> The adult system in Stats. 1903, ch. 35, § 1, p. 36; and the juvenile system in Stats. 1903, ch. 43 § 6, p. 44.

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### *Significant Events in the Past 25 Years*

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▪ **1976: *Reinvention of the California Juvenile Court***<sup>36</sup>

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As a result of landmark legislation in 1976, juvenile court laws in California changed significantly. Among the major reforms enacted were (1) the introduction of the adversarial process to the juvenile court and (2) the imposition of limitations on the detention of wards who have not been alleged to have violated a law. These changes greatly expanded the role played by community-based organizations, police agencies, and other nonprobation staff in diversion, treatment, and temporary housing activities for the juvenile at-risk (runaway, beyond control, and predelinquent) population.

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▪ **1977: *The Determinate Sentencing Law***<sup>37</sup>

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The passage of Senate Bill 42 in 1977 marked a major shift in the sentencing structure for most crimes committed by adults. The system changed from an indeterminate structure to one that followed a specified triad of sentence choices established by the Legislature for each crime. The establishment of a complex sentencing system and the ensuing modifications to the scheme through both legislative and judicial action have meant that probation officers now are required to have a strong working knowledge of the law so they can prepare presentencing reports, for example, or make appropriate recommendations of probation terms or imprisonment.

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▪ **1978–1979: *Proposition 13***<sup>38</sup> *and* ***Proposition 4***<sup>39</sup>

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In 1978, Proposition 13 reduced the property tax revenues collected by local governments, which, in turn, reduced the overall level of resources that counties had available to fund criminal justice and other programs. In 1979, Proposition 4 imposed limits on state and local government spending by establishing the state appropriations, or Gann (after the author of the measure), limit. The 1978–79 expenditure level serves as the base and is adjusted annually for population growth, inflation (using the lower of the percentage growth of the U.S. Consumer Price Index or California's per-capita personal income), and transfers of financial responsibility from one government entity to another.

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<sup>36</sup> Stats. 1976, ch. 1068.

<sup>37</sup> Stats. 1976, ch. 1139.

<sup>38</sup> Constitutional amendment.

<sup>39</sup> Stats. 1977, ch. 47.

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Subject to the Gann limit are all tax revenues and investment earnings from these revenues; proceeds from regulatory licenses, user fees, and charges that exceed costs to cover services; and tax funds used for "contingency, emergency, unemployment, reserve, retirement sinking fund, trusts or similar funds." As a result of both Propositions 13 and 4, county discretionary funds were greatly diminished. The county departments that relied heavily on county general-fund support, including probation, experienced severe budget reductions. Probation departments lost funding for many programs and entered a long-term hiring freeze, the effects of which are still being felt today. As discussed later in this report, many departments face a large gap in experience, with a wave of probation officers approaching retirement age and a substantial group of officers with about five years of experience, with relatively few officers populating the middle range.

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▪ **1982: *Victim's Bill of Rights***<sup>40</sup>

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Proposition 8 was the first of many efforts focused on the rights of victims. This initiative increased the responsibilities and duties of the probation officer by requiring notification of crime victims at various specified stages of the criminal and delinquency court processes.

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▪ **1994: *Three Strikes Law***<sup>41</sup>

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The Three Strikes law consists of two nearly identical statutory schemes—one a legislative bill and the second an initiative—designed to increase the prison terms of repeat felons. The legislative measure was signed into law as an urgency measure and became effective on March 7, 1994; the provisions of the initiative were effective later that same year, following voters' approval at the November 8, 1994, election. The Three Strikes law established significantly longer sentences for defendants who had either one or two prior convictions for crimes that were designated as serious or violent. Although the Three Strikes law was a major change in the criminal justice system, it had only a minimal impact on probation (e.g., longer probation reports for certain offenders).

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▪ **1994: *Expansion of Transfer of Juveniles to Adult Court***<sup>42</sup>

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Legislation enacted in 1994 lowered to 14 the age at which juveniles could be tried and sentenced as adults for certain offenses. This measure increased the number of fitness reports that probation needed to prepare and also required probation to detain juveniles for substantially longer periods of time.

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<sup>40</sup> Proposition 8 (constitutional amendment).

<sup>41</sup> Stats. 1994, ch. 12, Proposition 184.

<sup>42</sup> Stats. 1994, ch. 453.

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- **1996: Federal Welfare Law**<sup>43</sup>

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In 1996, the federal government established the Temporary Assistance to Needy Families (TANF) block grants, totaling \$16.5 billion. Grants were issued to states to extend assistance to low-income families. In California, approximately \$169 million was set aside in fiscal year 2002–2003 to support probation departments in the provision of 23 approved services, including mental health assessment and counseling; life skills counseling; anger management, violence prevention, and conflict resolution; after-care services; and therapeutic day treatment.<sup>44</sup>

The federal government must reauthorize the TANF block grant program by June 30, 2003. At this time, there is uncertainty as to whether the funding level will be maintained. Should the overall block grant received by the state diminish, probation's proportionate share might be affected. Reduction or elimination of this funding would have a tremendously detrimental impact on probation departments and would likely result in the cutting back of services.

- **1996 and 1998: Juvenile Crime Enforcement and Accountability Challenge Grant Program**<sup>45</sup>

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The Legislature began a major initiative in 1996 aimed at reducing juvenile crime and delinquency through the Juvenile Crime Enforcement and Accountability Challenge Grant Program. Pursuant to the first measure passed (the Challenge Grant I program), the Board of Corrections awarded \$50 million in demonstration grants to 14 counties for collaborative, community-based projects targeting at-risk youth and juvenile offenders.

Two years later, the Legislature amended the Challenge Grant program (referred to as Challenge Grant II) and provided \$60 million in additional funding for new demonstration grants.<sup>46</sup> The Board of Corrections awarded three-year grants totaling over \$56 million to 17 counties for a broad range of programs expected to serve over 5,300 at-risk youth and juvenile offenders. Examples of the demonstration projects include residential treatment programs, independent-living programs, day reporting centers, truancy prevention, pre-probation at-risk youth projects, enhanced assessment, case management, and community supervision services; and coeducational academies.

Resources allocated for juvenile crime prevention and intervention programs through the two cycles of Challenge Grant program funding represented a major infusion of revenue in support of local, collaborative efforts, but all of this funding was in the form of one-time grants, and it has since expired.

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<sup>43</sup> Title IV of the Social Security Act.

<sup>44</sup> Welf. & Inst. Code, § 18222.

<sup>45</sup> Stats. 1996, ch. 133.

<sup>46</sup> Stats. 1998, chs. 500, 502.

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### ▪ **1997–present:** *Construction Grants for Juvenile Detention Facilities*

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The Board of Corrections administers federal and state construction projects for adult and juvenile detention facilities. Federal support comes in the form of the Violent Offender Incarceration and Truth-in-Sentencing (VOI/TIS) incentive grant program, while state support for juvenile facilities comes in the form of a general-fund appropriation.<sup>47</sup>

Since 1997, the Legislature has appropriated over \$318 million in federal VOI/TIS funds to the Board of Corrections for distribution to counties as competitive grants. Nearly 90 percent of the funds (\$280 million of the \$318 million) has been earmarked for local juvenile detention facilities. Since fiscal year 1998–99, the Legislature has also made available state general-fund support totaling \$172 million for purposes of renovation, reconstruction, construction, and replacement of county juvenile facilities and the performance of deferred maintenance.

### ▪ **2000:** *The Gang Violence and Juvenile Crime Prevention Act—Proposition 21*

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In March 2000, California voters approved Proposition 21, the Gang Violence and Juvenile Crime Prevention Act. This initiative statute made sweeping changes to the adult and juvenile criminal justice systems and significantly changed the law regarding probation supervision for juveniles. For specified crimes and juvenile offenders, Proposition 21 shifts discretion away from the courts and probation to the prosecutor with respect to determining the appropriateness of adult court jurisdiction for certain crimes, and it grants full discretion to the prosecutor for the filing of probation violations. Further, the initiative requires that juveniles charged with certain serious offenses be adjudicated in criminal court, and it mandates a deferred-entry-of-judgment program in place of informal probation. In addition, the initiative changes laws for juveniles and adults who are gang-related offenders and for those who commit violent and serious crimes.

While the range of potential impacts is broad, the full impact of the initiative on the criminal justice system, and on the probation system specifically, remains unknown. Increased workload and operational pressures on probation are expected to be most pronounced in the following areas: increased monitoring and supervision required by the deferred-entry-of-judgment program; increased local detention costs in juvenile halls, particularly for youths being held while awaiting trial in adult court; increased transportation costs for moving juvenile defendants from detention to adult court; additional investigation and reporting duties for cases transferred to the adult court; and increased workload to ensure compliance with gang registration requirements.<sup>48</sup> Some of

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<sup>47</sup> Board of Corrections, *An Overview of the Construction Grant Program* <<http://www.bdcorr.ca.gov/cppd/construction%20grant/coninfo.htm>> (as of May 2002).

<sup>48</sup> California State Association of Counties, *Proposition 21: Anticipated County Impact* <[http://www.csac.counties.org/legislation/juvenile\\_justice/index.html](http://www.csac.counties.org/legislation/juvenile_justice/index.html)> (as of Jan. 2000).



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the workload demands brought on by the provisions of Proposition 21 may be in part offset by reductions in workload resulting from a diminution in the number of fitness hearings.

▪ **2000: *The Juvenile Justice Crime Prevention Act***<sup>49</sup>

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A historic measure enacted in 2000 joined an established funding program for law enforcement activities (the Citizens' Option for Public Safety, or COPS) with a new initiative aimed at juvenile crime prevention and intervention. Under the Juvenile Justice Crime Prevention Act (JJCPA), county probation departments receive funding on a per-capita basis to implement a comprehensive multi-agency juvenile justice plan. County probation departments have received over \$100 million statewide annually since FY 2000–01 for these purposes; however, funding must be reauthorized annually by the Legislature.<sup>50</sup> Since the program's initiation in September 2000, counties have devoted extraordinary resources and demonstrated enormous innovation in planning, expanding, and implementing a broad range of programs to reduce juvenile crime and advance public safety.

▪ **2000: *The Substance Abuse Crime Prevention Act—Proposition 36***

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In November 2000, Californians approved the Substance Abuse Crime Prevention Act that requires certain nonviolent adult offenders who use or possess illegal drugs to receive drug treatment and supervision in the community, rather than being sent to state prison or county jail or supervised in the community without treatment. As a condition of parole or probation, the offender is required to complete a drug treatment program. Proposition 36 became effective July 1, 2001, and the full impact of the statewide program is still under evaluation.

As a result of Proposition 36, probation departments are experiencing workload pressures and increased operational costs from a number of sources, including (1) the monitoring and supervision of a new population of probationers,<sup>51</sup> (2) assessment of the eligibility and appropriate level of service for each participant and potential participants, and (3) drug testing. The effects on individual probation departments vary by county and depend on the structure of the local treatment program and the level of support, if any, that the probation department receives from its county's Proposition 36 allocation.

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<sup>49</sup> Assem. Bill 1913 (Stats. of 2000, Ch. 353). Subsequently amended by Sen. Bill 736 (Stats. of 2001, Ch. 475) and Sen. Bill 823 (Stats. of 2002, Ch. 21)

<sup>50</sup> A total of \$242.6 million was provided for the joint funding initiative in FY 2000–01, with \$121.3 million going to COPS for front-line law enforcement services and \$121.3 million to JJCPA for juvenile prevention and intervention programs. Overall funding was reduced by \$10 million—to \$232.6 million—in FY 2001–02, yielding \$116.3 to each program component. This same amount was allocated in FY 2002–03 and is currently contained in the Governor's spending plan for 2003–04.

<sup>51</sup> Participants who enter the Proposition 36 program for the commission of a lesser crime may not otherwise have been placed under probation supervision.

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### *Service Trends*

The generally stricter laws passed in the late 1970s and disenchantment with the efficacy of offender treatment, combined with budget reductions in the early 1980s, reduced the involvement of the probation officer in direct-treatment services. The role of the probation officer evolved into one of a service broker, whereby services were delegated to community-based organizations. The need to “do more with less” meant that officers attempted to assess offender risk levels, supervised those probationers appearing most at risk, and assigned lower-end probationers to banked caseloads.

In the mid-1980s, stronger relationships with police agencies emerged in response to increased street gang activity and violent crimes. Several larger probation departments developed intensive supervision units to provide focused monitoring of gang members and other specialty caseloads. Some departments began arming probation officers and joined as partners in enforcement operations with police agencies. Intensive supervision was hands-on and became more intrusive in nature, involving increased field surveillance activities and Fourth Amendment waiver searches. The 1980s also were a period during which probation departments were dramatically limited in their ability to operate diversion, prevention, and intervention programs. Reduced funding and the ensuing loss of positions forced departments to scale back their front-end activities, leaving time only for the public-protection aspect of probation services, such as monitoring and surveillance activities.

In the 1990s, growing concern about youth violence yielded a greater focus on the need for prevention efforts. General-fund appropriations remained low for discretionary probation services, so departments expanded activities to generate revenue, increased probation fee collections, and competed for grants to fund programs to work with youths and their families in a comprehensive manner. Also, the state took a strong interest in youth violence prevention and devoted considerable grant funding to the development of local youth violence prevention and intervention strategies. Fiscal assistance for these efforts, however, was one-time in nature. Whether it will continue in a time of severe fiscal constraint will again be tested during 2003–04 budget discussions.

### *CONCLUSION*

Probation began in 1841 as a means to provide a spectrum of punishment and rehabilitation services for offenders. Over time, the role of probation and the clients served by the system have evolved. Yet throughout its history, probation has retained as a core function and priority the provision of accountability for law violations in the community. Although changes during the past 25 years have affected the system, probation continues to provide critical, quality services without adequate resources. Probation provides numerous exemplary programs—many in partnerships with other county agencies—that set the stage for building on relationships and maximizing resources.

## SECTION IV

## Probation Present

This section describes the current structural elements of probation departments and details in general terms the procedures for appointing, evaluating, and removing CPOs. It also furthers the discussion of problems related to the somewhat unpredictable fiscal mechanisms that fund current probation efforts.

Following this governance discussion, this section examines and describes a number of core service issues driven in large part by the issues and themes raised during outreach efforts, especially the written stakeholder survey.

*PROBATION: A LINCHPIN IN THE JUSTICE SYSTEM*

Probation occupies a unique and central position in the local and state criminal justice structure. It serves as a linchpin of the criminal and juvenile justice systems and is the one justice system partner that regularly collaborates with all stakeholders as an offender moves through the system. Probation connects the many diverse stakeholders, including law enforcement; the courts; prosecutors; defense attorneys; community-based organizations; mental health, drug and alcohol, and other service providers; the community; the victim; and the probationer.

Probation occupies a unique and central position in the justice system. It links the many diverse stakeholders, including enforcement; the courts; prosecutors; defense attorneys; community-based organizations; mental health, drug and alcohol, and other service providers; the community; the victim; and the probationer.

The role and identity of probation departments have evolved substantially over the years, with developments in the past decade showing extraordinary innovation in the face of fiscal challenge. Substantial variation exists in the types of services offered in each of the 58 counties. While state law mandates certain probation services in all counties, other programs are tested on a pilot or otherwise limited-term basis, supported by a fixed cycle of grant funding.<sup>52</sup> Local needs, community requirements, funding constraints, and the absence of statewide standards in most core program areas<sup>53</sup> have encouraged the growth of services and programs that best fit local needs.

<sup>52</sup> See appendix F.

<sup>53</sup> While statewide standards are in place in some areas such as custody facilities and staff training requirements, for other major program considerations, such as caseload, there are no mandated state guidelines. The task force recognizes (see fundamental principle 4) that further examination of the viability and efficacy of standards in other core areas may be beneficial and has drafted standards and guidelines at appendix G that may serve as a starting point for this effort.

*GOVERNANCE*

In 57 of the 58 counties, a single CPO has oversight and supervisory responsibility for the adult and juvenile services provided by the probation department. The City and County of San Francisco is unique in that it maintains separate adult and juvenile probation departments, each with its own CPO. In the vast majority of the counties, the court appoints the CPO. Structurally, however, probation departments are county agencies financed by the local executive branch, and the CPO is a county official who hires staff according to county procedures. This bifurcated governance system results in a wide range of variations in policies, procedures, and facilities among probation departments within California.

*The CPO Appointment Process*

The formal CPO appointment process is not uniform throughout the state, and in many instances, informal practices—including collaborations with and consultations among courts, county officials, and other key stakeholders in appointment and removal decisions—have evolved, making exact accounting of official procedures in each county somewhat difficult.<sup>54</sup> Based on results from the task force's January 2001 survey, and taking into account a change in one county's charter,<sup>55</sup> it appears that the CPO is appointed and removed by the courts in 51 of California's 58 counties.<sup>56</sup> The counties in which the local board of supervisors now appoints the CPO<sup>57</sup> include major population centers such as Alameda, Los Angeles, and San Diego. In terms of the numbers of counties, the court-appointed CPO model is clearly prevalent; however, the county-appointed CPO model applies to jurisdictions that supervise a significant number of probationers in California. In the City and County of San Francisco, the court appoints the adult CPO, and a county commission appointed by the mayor appoints the juvenile CPO.

In part, the differences in appointment practices stem from statutory ambiguity and differing statutory interpretations. Statutory language can be interpreted to allow four methods of appointment and removal of the CPO: (1) county appointment authorized by

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<sup>54</sup> The following statutes govern California's chief probation officer appointment process: Welf. & Inst. Code, §§ 225, 270, 271; Pen. Code, §§1203.5, 1203.6.

<sup>55</sup> The California Constitution recognizes two types of counties: general law counties and charter counties. General law counties adhere to state law as to the number and duties of county elected officials. Charter counties, on the other hand, have a limited degree of home rule authority that may provide for the election, compensation, terms, removal, and salary of the governing board; for the election or appointment (except of the sheriff, district attorney, and assessor, who must be elected), compensation, terms, and removal of all county officers; for the powers and duties of all officers; and for consolidation and segregation of county offices.

<sup>56</sup> Task force survey results indicate that the board of supervisors appoints in the following counties: Los Angeles, Marin, San Diego, San Luis Obispo, Ventura, and Yolo. In addition, voters in Alameda County approved a charter amendment on the November 2002 ballot that shifted the appointment and removal authority to the board of supervisors.

<sup>57</sup> Welf. & Inst. Code, § 271.

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county charter with relevant governing authority,<sup>58</sup> (2) county appointment authorized by county merit or civil service system with relevant governing authority,<sup>59</sup> (3) court appointment by the juvenile court presiding judge after nomination by the juvenile justice commission,<sup>60</sup> and (4) court appointment of the adult probation officer by the trial court presiding judge or a majority of judges as applicable in charter counties.<sup>61</sup> Although the court appoints the vast majority of CPOs, the method by which the CPO is appointed varies. Courts have different interpretations of the role of the juvenile justice commission (e.g., whether the commission's nominations are binding or whether they serve to give the court guidance) and of the statutory basis for the appointment (e.g., whether the CPO should be appointed under the Welfare and Institutions Code, the Penal Code, or both). A second complication is that any given court or county may rely on the appointing authority under a specific statute, but as a practical matter, it may use a system that is all together different. In many jurisdictions, informal practices and traditions have evolved that may include the participation of other stakeholders in the appointment process. Therefore, the task force recognized the need to work toward clarity and uniformity in this area, while leaving appropriate flexibility for charter counties.<sup>62</sup>

The task force surveyed courts, counties, and probation departments regarding the local appointment process.<sup>63</sup> The majority of respondents indicated awareness that the court principally has the statutory authority to appoint the CPO.

Most respondents also described varying levels and methods of communication between the court and county government regarding the CPO selection and appointment process. Task force members viewed this type of communication and partnership as a positive indication that a solid basis exists for encouraging further collaboration in this process. Existing communication and collaboration models include the involvement, depending

Almost half of the survey respondents indicated that the appointment system works very well. In many of the counties where respondents indicated satisfaction with the appointment process, respondents pointed to existing partnerships involving the major stakeholders in the appointment process as the key to its effectiveness.

on the appointing entity, of some or all of the following partners: the local juvenile justice commission,<sup>64</sup> various configurations of the bench (e.g., one judge, the presiding judge of both the juvenile and criminal divisions, or a committee of judges), the board of supervisors, court executives, and county administrative officers.

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<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*

<sup>60</sup> Welf. & Inst. Code, § 270; Welf. & Inst. Code, § 225, mandates that each county have a juvenile justice commission and sets forth the composition of such commission and appointment process.

<sup>61</sup> Pen. Code, § 1203.5.

<sup>62</sup> For the purpose of this report, discussion of the current appointment process will reference court and county appointment, without distinguishing the appointment method.

<sup>63</sup> See Stakeholder Survey Results, pp. 60–70.

<sup>64</sup> As mandated in Welf. & Inst. Code, § 270, "Probation officers in any county shall be nominated by the juvenile justice commission of such county in such manner as the judge of the juvenile court in that county shall direct, and shall be appointed by such judge."

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The stakeholder survey sought input on individuals' impressions of the current CPO appointment system. Almost half of the respondents indicated that the appointment system works very well. In many of the counties where respondents indicated satisfaction with the appointment process, respondents pointed to existing partnerships involving the major stakeholders in the appointment process as the key to its effectiveness.

### *The CPO Evaluation Process*

The task force also surveyed courts, counties, and probation regarding the current CPO evaluation process.<sup>65</sup> Of the responding counties, 36 of 55 (65 percent) indicated that a formal CPO evaluation process exists. Authority for conducting evaluations in most cases (85 percent) resides with the judiciary. According to the survey, the executive branch conducts approximately 25 percent of the CPO evaluations, indicating that in some counties in which the court appoints the CPO, the executive branch is responsible for evaluating the CPO. Of the jurisdictions that perform formal CPO evaluations, irrespective of the entity responsible for the evaluation, 77 percent conduct the performance assessments annually. County employee performance instruments and procedures are often used for purposes of evaluating the CPO. In some counties where no formal evaluation process exists, an informal process has developed. Twenty of the 55 responding counties have an informal process for evaluation of the CPO. In most instances, the presiding judge conducts this evaluation. In almost two-thirds of the counties where such an informal system has developed, the evaluation is conducted solely by the judiciary. The frequency of informal evaluations varies, ranging from three to five years, to "as needed," to "weekly meetings with judiciary."

The task force recognized the importance of the evaluation and addresses this issue in Recommendation 4 pertaining to mission statements with goals and objectives.

### *The CPO Removal Process*

Pursuant to Welfare and Institutions Code section 270, "[p]robation officers may at any time be removed by the judge of the juvenile court for good cause shown; and the judge of the juvenile court may in his discretion at any time remove any such probation officer with the written approval of a majority of the members of the juvenile justice commission." In response to stakeholder survey questions on the CPO removal process,<sup>66</sup> more than half reported that CPOs serve "at will"—an employment status usually undertaken without a contract and that may be terminated at any time, by either the employer or employee, without cause.<sup>67</sup> It should be noted that other employment arrangements may be

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<sup>65</sup> Stakeholder Survey Results, pp. 63–65.

<sup>66</sup> *Id.* at p. 66.

<sup>67</sup> Black's Law Dict. (7th ed. 1999) p. 545.

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negotiated at the local level and that litigation has occurred following CPO termination centering on issues related to alleged violations of other employment law provisions.

Over half of the survey respondents stated that their counties have no formal process for CPO removal. In counties where a formal process for CPO removal is in place, 26 of the responding counties (69 percent) reported that the judiciary conducts the formal removal of the CPO. In 13 percent of the responding counties, the judiciary and juvenile justice commission jointly conduct the removal process. The board of supervisors conducts the removal process in the remaining 18 percent of the counties that responded to the written survey. In 25 counties, the process for CPO removal relies on written county standards and rules as guidelines regardless of which entity—the court or the county—carries out the removal. In 8 counties (36 percent of the responding jurisdictions), removal is based entirely on judicial discretion, meaning that the basis upon which removal is recommended and carried out potentially could vary quite substantially among these jurisdictions. Responses to survey questions regarding how disagreement over the appointment, evaluation, discipline, and removal processes are handled revealed that in some counties relationships between the judicial and executive branches of state government are strained.

The task force carefully examined and vigorously discussed stakeholder input on the issues surrounding governance. With respect to the current appointment, evaluation, discipline, and removal processes for the CPO, stakeholder input informed the larger discussions on both current and potential alternative models for probation governance.

### *PROBATION FUNDING SOURCES*

As previously noted, probation departments in California do not enjoy a stable, reliable funding base. The six-county snapshot study conducted in September 2000 indicated that although there had been a dramatic increase in total probation department spending in the previous five fiscal years, budget augmentations, for the most part, have been supported by fee increases and federal and state fund contributions. While net county general-fund contributions to probation increased during this same period of time, the percentage of county general-fund contributions in overall probation budgets decreased. Counties in the snapshot study reported that overall increases ranged from 24 to 83 percent. The general-fund contributions to the total budget ranged from 35 to 58.3 percent. Four of the six departments receive general funds of less than 50 percent of the total budget, with one department receiving less than 40 percent. With the exception of one unreported

Probation departments in California do not enjoy a stable, reliable funding base. Although during the late 1990s and, up until the fiscal crisis that emerged in 2002, there had been a dramatic increase in total probation department spending, budget augmentations, for the most part, have been supported by fee increases and federal and state fund contributions. In addition, a substantial amount of probation funding is limited term. In the face of the current economic climate, probation—like all county departments—is unlikely to see any growth in the foreseeable future.

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department, all others indicated that general-fund contributions have decreased as a percentage of their total budgets.

Looking back to the passage of Proposition 13 in the late 1970s and the corresponding decrease in county revenues, it is evident that probation department resources have diminished dramatically. Adult and juvenile probation services were, in many counties, reduced to a bare minimum. With very limited resources, ensuring basic public safety was the first priority; departments then were forced to make other budgetary decisions based on local requirements as to the allocation of any remaining resources.

As resources increased during the latter half of the 1990s—a period of extraordinarily strong economic growth in California—probation departments integrated new and innovative services and programs with the support of increased state and local funding. State support has chiefly been targeted at the juvenile service area, such as at programs funded through the Juvenile Crime Enforcement and Accountability Challenge Grant Program<sup>68</sup> and the Schiff-Cardenas Crime Prevention Act.<sup>69</sup> As a result of the funding priorities determined at the state level, juvenile prevention and early intervention programs have become core services for many probation departments; however, a substantial amount of this funding, including the two examples just cited, is limited term. Indeed, the Challenge Grant Program has been terminated, and the Crime Prevention Act, although proposed for continued funding in the Governor's 2003–04 budget, is by no means guaranteed. Probation departments hasten to point out that many of their personnel are funded through specialized grant dollars, and that if this funding were discontinued, there would no longer be a ready revenue source to sustain these positions.

While an increased focus on juvenile supervision and rehabilitation is generally recognized as beneficial to the recipient probationers, the somewhat overbalanced

It is widely believed that resources currently devoted to adult probation services are largely inadequate.

emphasis on juvenile services means that the limited number of remaining staff and resources is often sorely insufficient to properly supervise the adult probation population. Results from outreach efforts indicate that all jurisdictions reported some measure of banked caseloads, which often includes a significant population of serious—even violent—offenders in need of direct and intensive supervision. It appears that resources currently devoted to adult probation services are largely inadequate.<sup>70</sup>

<sup>68</sup> Stats. 1996, ch. 133; Stats. 1998, chs. 500, 502.

<sup>69</sup> Stats. 2000, ch. 353; 2001–2002 Budget Act (Stats. 2001, ch. 106); and 2002–2003 Budget Act (Stats. 2002, ch. 379).

<sup>70</sup> Six County Executive Summary, p. 8.



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The current reliance on grant money for special programs and services will, of necessity, diminish when this funding stream is discontinued. In the 1970s, probation departments across the nation faced a serious financial and programmatic setback. At that time, a federal program, the Law Enforcement Assistance Administration (LEAA), provided substantial financial support to state and local probation departments. When that funding stream ended, many progressive probation programs that received LEAA support were eliminated. As a result, the reputation of probation was severely damaged, and it took more than a decade to recover from the loss of service.<sup>71</sup>

California is now in a period of extraordinary fiscal crisis owing to a confluence of several economic factors, including a critical reduction in revenue statewide and a major economic slowdown on the national level. Currently, the projected budget deficit for the remainder of the 2002–03 fiscal year and the 2003–04 fiscal year is \$34.8 billion.<sup>72</sup> As a result, it is highly likely that state and county contributions to probation will decline steeply in the immediate future. Unfortunately, in periods during which funding available to probation decreases, the need for probation often increases—research shows that when the economy experiences a downturn, crime increases, thereby further taxing the services of probation.<sup>73</sup> Task force members were unanimous that probation departments must have adequate and stable funding to ensure success in delivering their critical services. This area clearly presents one of the major challenges that lie ahead in formulating a new model for probation in California.

Task force members were unanimous that probation departments must have adequate and stable funding to ensure success in delivering their critical services. This area clearly presents one of the major challenges that lies ahead in formulating a new model for probation in California.

It is important to note that even without substantial infusion of fiscal support, probation departments can make positive gains by maximizing resources, implementing innovative programs modeled in other jurisdictions in the state, and reallocating resources.

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<sup>71</sup> Stakeholder Survey Results, pp. 46–47.

<sup>72</sup> Governor's Press Release 12/18/2002: Governor Davis Announces \$34.8 Billion Budget Shortfall <[http://www.governor.ca.gov/state/govsite/gov\\_htmldisplay.jsp?BV\\_SessionID=@@@@0793740177.1041287154@@@@&BV\\_EngineID=hadcgckhigghbemgcfkmchchi.0&sCatTitle=Press+Release&sFilePath=/govsite/press\\_release/2002\\_12/20021218\\_PR02638\\_Budget.html&sTitle=GOVERNOR+DAVIS+ANNOUNCES+\\$34.8+BILLION+BUDGET+SHORTFALL+12%2f18%2f2002&iOID=38298](http://www.governor.ca.gov/state/govsite/gov_htmldisplay.jsp?BV_SessionID=@@@@0793740177.1041287154@@@@&BV_EngineID=hadcgckhigghbemgcfkmchchi.0&sCatTitle=Press+Release&sFilePath=/govsite/press_release/2002_12/20021218_PR02638_Budget.html&sTitle=GOVERNOR+DAVIS+ANNOUNCES+$34.8+BILLION+BUDGET+SHORTFALL+12%2f18%2f2002&iOID=38298)> (as of January 7, 2003). Documents related to the Governor's proposed 2003–04 budget are available at <[http://www.dof.ca.gov/HTML/BUD\\_DOCS/Bud\\_link.htm](http://www.dof.ca.gov/HTML/BUD_DOCS/Bud_link.htm)>.

<sup>73</sup> North Carolina Wesleyan College <<http://faculty.ncwc.edu/toconnor/301/301lect07.htm>> (as of Dec. 20, 2001).

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### *Identifying the Cost of Probation*

In an attempt to assess the total cost of probation, the task force drew on the expertise of probation business managers and the AOC Finance Division. Initially, the task force reviewed the annual revenue survey<sup>74</sup> prepared by the Santa Clara County Probation Department on behalf of the Probation Business Managers' Association. However, the task force quickly discovered that the revenue survey does not include expenses associated with probation that are not reflected in the probation department budget (e.g., general overhead costs), which are assumed in other county department budgets. Additionally, probation departments have no uniform standards for classifying revenues and expenditures, making comparisons between departments difficult. In an attempt to gauge the true cost of probation in a sample of counties and develop standard elements for comparison, the task force sought the assistance of the AOC Finance Division, which, through the process of establishing a statewide trial court budget management process, had developed significant expertise and knowledge. The Finance Division drafted a fiscal questionnaire that attempted to identify actual costs of probation in a sample of counties. The task force shared this fiscal survey with CPOs and probation business managers and determined that such a survey should not be undertaken at this time. The task force recognized the complexity of such a survey and the need for additional research, as outlined in section VI, and concluded that it was not feasible to complete the survey prior to the anticipated publication date of this report.

### *MISSION STATEMENTS WITH GOALS AND OBJECTIVES*

The task force's outreach efforts also provided illuminating information on operational practices that appear to enhance the delivery of probation services. One of these practices is the development of meaningful mission statements that include goals and objectives. Survey results indicate that most counties have written mission statements for probation departments. More than half of the mission statements were written in the past 5 years. Almost one-third of the counties have not developed a written mission statement in the past 10 years. Half of the responding counties that do have a mission statement also undertake an annual review of existing mission statements.<sup>75</sup> Further discussion of the importance of mission statements and related recommendations appears in section V of this report.

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<sup>74</sup> Fiscal Year 2000/2001 Revenue Survey of California Probation Departments, prepared by the Santa Clara Probation Department.

<sup>75</sup> Stakeholder Survey Results, p. 31.

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### *CALIFORNIA'S CASELOAD DILEMMA*

The size of probation departments varies widely throughout the state, as do caseload sizes both between and within counties. Information gathered during site visits, focus group outreach efforts, and surveys indicates that most counties have no system in use to equalize workload distribution to probation staff. Some jurisdictions have caseload size limitations, but none has objective workload standards to ensure that workload is distributed in an equitable manner.

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Written survey responses in which probation departments self-reported on the size of sworn staff showed a range of authorized deputy probation officers (DPOs) or equivalent employees per department from 2 to 4,800.<sup>76</sup> These departments also reported average daily numbers of supervised probationers ranging from under 500 to more than 83,000. Because of the wide divergence in probation department size, the task force recognized that a variety of solutions and strategies should be considered when discussing the issues facing large-, medium-, and small-sized probation departments.

Stakeholders repeatedly stated their concerns with the caseload situation in California. Several themes emerged: First, caseloads are too high. Second, grant-funded programs often require probation officers to supervise a specified, small number of offenders, which reduces the number of probation officers available for supervising the general probation population. This phenomenon, in turn, leaves the remaining probation officers who supervise the general population with high caseloads. Third, many stakeholders are concerned about the possible negative impact of new laws, including major initiative statutes, that could lead to increases in the number of probationers. Finally, another recurring comment raises issues related to the potential liability and negative impact on victims associated with a large number of banked, unsupervised probationers.

Many counties have more than one method of assigning cases, but almost half of the counties that responded to the survey make assignments according to specialized case type. Methods used to assign cases include assignment by specialized case type, rotation, amount of work, and geographic factors. When probation departments are unable to supervise all court-assigned probationers, the practice used throughout most counties is to bank cases, which places probationers under less intensive or virtually no supervision. CPOs faced with management issues regarding the most effective use of limited resources frequently choose specialized intensive supervision for certain high-need populations (e.g., sex offenders, drug-involved offenders, gang violence offenders,

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<sup>76</sup> Stakeholder Survey Results, pp. 9–19; Los Angeles Probation Department <[http://probation.co.la.ca.us/information\\_track/aboutthedept.html](http://probation.co.la.ca.us/information_track/aboutthedept.html)> (as of Nov. 28, 2001).

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and domestic violence offenders), meaning that DPOs with general caseload assignments often carry a very high number of cases.<sup>77</sup> In most instances, the specialized intensive supervision caseloads are considerably smaller than regular probation caseloads, often because program requirements define a specific caseload ratio.<sup>78</sup>

Probation departments report that for many years adult misdemeanants simply have not been a priority because of the severely limited resources available to supervise adult offenders.<sup>79</sup> Out of necessity, probation departments focus on felons and other serious offenders. However, it is important to point out that adult misdemeanants may have been charged with a more serious crime, but later plea bargained in exchange for a misdemeanor violation. While misdemeanor probationers are likely to be placed in banked caseloads where they receive little or no supervision, they may indeed be disposed to commit rather serious crimes.<sup>80</sup>

Compared with adults, a substantially larger proportion of juvenile probationers had misdemeanor charges.<sup>81</sup> Probation departments have determined that intensive supervision services can break the cycle of juvenile crime and divert youths from an eventual progression into the adult criminal system. As discussed earlier, many counties in California already emphasize prevention, diversion, and front-end services for juveniles. This community approach has proven to be an excellent way of maximizing available resources.<sup>82</sup> The lower caseloads that often accompany the use of specialized and intensive supervision programs also are another important element in the successful supervision and rehabilitation of the juvenile probation population.

### *Strategies for Managing Workload*

Workload measure rather than caseload size is the most accurate and effective gauge for equalizing work distribution among probation officers.

The task force recognizes that to optimize probation services, caseloads must be at a manageable level. Workload measure rather than caseload size is the most accurate and effective gauge for equalizing work distribution among probation officers.

A common theme emerged during outreach events underscoring the difficulties probation departments face when they receive inadequate funding but are simultaneously expected to provide higher levels of service. The task force recognized that a close examination of workload and assessment of the viability

<sup>77</sup> Stakeholder Survey Results, p. 21.

<sup>78</sup> *Id.* at p. 23.

<sup>79</sup> *Id.* at p. 5.

<sup>80</sup> *Ibid.*

<sup>81</sup> *Ibid.*

<sup>82</sup> *Challenge Grant I Program Evaluation* <[http://www.bdcorr.ca.gov/cppd/challenge%20grant%20II/interim%20report/program\\_evaluation.htm](http://www.bdcorr.ca.gov/cppd/challenge%20grant%20II/interim%20report/program_evaluation.htm)> (as of Nov. 27, 2001).

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and feasibility of standards were a critical components of its charge. The task force is very concerned that probation departments have the ability to develop and define more realistic expectations relating to workload; however, a more thorough statewide examination is necessary to develop a proper implementation strategy. In the sections that follow, the task force offers findings that potentially could assist probation departments in the short term in addressing chronic workload challenges.

### *THE WORK OF PROBATION*

To gain a better understanding of the day-to-day operations of probation, particularly by those members who do not work directly in the field, the task force was provided with comprehensive briefings on the breadth of probation departments' responsibilities. This section details the statutory authority and the scope of required duties of probation departments.

Adult and juvenile probation services operate largely under separate statutory guidelines, specifically the Penal Code and the Welfare and Institutions Code, respectively. However, the Penal Code and the Welfare and Institutions Code do not completely delineate the scope of probation services. Other codes, such as the Administrative Code, Civil Code, Code of Civil Procedure, Family Code, and Probate Code, assign additional responsibilities. In an attempt to understand the complexity of probation services and the competing priorities placed on probation departments, in summer 2002 the task force compiled a list of laws and mandates relevant to probation.<sup>83</sup> This document does not enumerate every statutory reference to probation, nor does it include caselaw summaries related to probation. It does bring together those laws and mandates that delineate the bulk of probation's work. The task force anticipates that this document will serve as the basis of an effort to examine and make recommendations to improve the delivery of probation services for the benefit of probationers, communities, victims, and the courts.

Probation agencies are responsible for a variety of tasks. While the manner in which these tasks are performed may vary from county to county, general responsibilities can be grouped into the following categories:

- Intake and investigation services;
- Offender supervision services;
- Other services; and
- Custody services.

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<sup>83</sup> See appendix F.

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### *Intake and Investigation Services*

The role of probation officers begins before adult and juvenile offenders are placed on probation. Probation has responsibility for conducting bail and own recognizance investigations and reports, pretrial investigations, presentence investigations, and intake services. In some larger probation departments, probation officers specializing in these areas perform these tasks, but in some smaller counties, probation officers' intake and investigation duties may be combined with other probation responsibilities.

### *Offender Supervision Services*

Probation departments are responsible for supervising offenders in their jurisdiction. In addition to supervising probationers who commit an offense in their jurisdiction, probation departments also provide courtesy supervision of offenders who are on probation for offenses committed in other counties or states. There are as many activities that constitute offender supervision as there are differences in how the tasks may be carried out from county to county. All counties provide intensive supervision services for some offenders. Some type of specialized caseload supervision is provided in all counties, although the types of caseloads (e.g., drug-involved offenders, domestic violence offenders, and gang members) vary considerably.

Through its outreach efforts, the task force was able to identify many exemplary service programs. Many of these practices and programs involve partnerships with key community stakeholders and depend on a common commitment to the overriding goal of assisting juveniles and families. Practices and programs vary across the state due to variation in local need and resources. While a probation department serving a large jurisdiction may be able to create specialized programming for a particular offender population, probation departments in smaller jurisdictions may not have the resources or offender population to justify specialized services and programs. While at this time the task force is not recommending specific practices, the exemplary services and programs listed here may be appropriate for probation models in place now or in the future.

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### Exemplary Services and Programs

*Through its examination and reports from the snapshot study and site visits, the task force noted numerous exemplary service programs that are currently being implemented in probation departments. Examples include, but are not limited to, the following:*

- Adult and juvenile drug courts;
- Domestic violence programs;
- Electronic monitoring;
- Juvenile automation systems;
- School campus partnerships;
- Neighborhood accountability boards;
- Wrap-around services programs for juveniles and families;
- Juvenile restorative justice programs;
- Continuum of sanctions programs for juveniles;
- Teen or peer courts;
- Partnerships between juvenile probation and public/private juvenile-serving agencies;
- Alternatives to juvenile detention;
- Systems management advocacy resource teams for juveniles; and
- Partnerships with other government branches working to maximize limited resources.

#### Adult Services

Section 1203 of the Penal Code defines probation for adults as “the suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community under the supervision of a probation officer.” Section 1203 also lays out the responsibilities of probation departments for adult offenders. Data indicates that most counties already have in place basic services for most adult offenders.<sup>84</sup> Many adult participants in the criminal justice system never encounter probation because they are misdemeanants. Probation provides supervision for adult offenders who are granted probation by the court, including those with domestic violence and drug offenses that are assigned to a specialized calendar. Survey responses show that adult drug courts are evolving into a core service of adult supervision. The probation officer’s participation in adult criminal matters is very different from his or her role in the supervision of juvenile probationers.

#### Juvenile Services

The Welfare and Institutions Code sets out the purpose of juvenile probation as follows: “(m)inors under the jurisdiction of the juvenile court as a consequence of delinquent conduct shall, in conformity with the interests of public safety and protection, receive care, treatment, and guidance that is consistent with their best interest, that holds them accountable for their behavior, and that is appropriate for their circumstances.”<sup>85</sup> Chapter

<sup>84</sup> Stakeholder Survey Results, p. 25.

<sup>85</sup> Welf. & Inst. Code, § 202(b).

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2 of the Welfare and Institutions Code is the primary statutory authority for juvenile procedures and serves as an indispensable legal reference for all persons involved directly or indirectly in juvenile services. However, even though the same laws bind all California counties, the administrative procedures relating to the implementation of the law are not always found in the statutes or the California Rules of Court. Instead, the manner of implementation and service levels vary from county to county, depending on local practices, needs, and resources.

An important distinction between adult and juvenile probation is the way in which the probationer is referred to the system. A referral to juvenile probation can come from law enforcement, parents, schools, or other community agencies, but in adult probation, the referral to the probation department is always made by the court and, generally, only after the defendant's conviction. Following a juvenile referral, the probation officer will assist the court by investigating and reporting back to the court with a recommendation for a just disposition or disposition consistent with the safety and best interests of the community. Many juvenile cases never make it to court but are instead diverted to informal probation, conditionally dismissed, or counseled and dismissed. It is the responsibility of the juvenile probation officer to deal with a juvenile both before and after his or her disposition, but the responsibility of adult probation officers focuses exclusively on what to do after an adult is convicted of a crime. In either instance, if probation is granted, the probationer is placed by the court under the supervision of the probation officer for a specified period of time and under specific terms and conditions imposed by the court.

The task force recognizes that greater resource availability for juvenile services permits and encourages innovation and collaboration. The many exemplary programs and

The task force recognizes that greater resource availability for juvenile services permits and encourages innovation and collaboration. The many exemplary programs and services for juveniles are readily transferable to the adult population should the funding and resources necessary to carry them out at that level be available.

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Another important function of probation agencies is to provide treatment and other services directly to offenders or, in many cases, to refer offenders to appropriate community agencies. Because of the strong correlation between substance abuse and crime, probation agencies provide

services or refer offenders to substance abuse treatment. Many agencies contract for counseling services for offenders, and many have job development programs. Some agencies also provide education programs for driving-under-the-influence offenders. Some departments provide lock-up facilities or group homes to serve girls.



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### *Other Services: Collections and Victims Services*

Probation departments are frequently involved in the collection of money from offenders for restitution, fees, and fines. Even if probation agencies do not actually collect funds, some assess offenders' ability to pay or may be responsible for supervising offenders' monetary obligations and enforcement of payments. Probation departments also may delegate responsibility for collection to a central county collection agency. Often, the differences in services provided depend on the size of the county.

Many California probation departments provide services for victims of crime, although there are models in which another county agency, such as the district attorney's office, carries out this function. It is widely recognized that including and helping victims as part of the criminal justice process is critical, and it represents an important component of a balanced and restorative justice approach to probation.

### *Custody Services*

As described in further detail in the following paragraphs, responsibility for custody facilities is a core function of probation departments. Generally, this responsibility extends to three types of facilities—juvenile halls, county ranch/camp facilities, and adult work furlough facilities—as well as electronic monitoring programs. Although less common, some probation departments may operate day treatment centers and, in one county, a regional treatment facility is available for high-need juvenile offenders. The sheriff's department has involvement in some of the custody services in certain counties.

#### *Juvenile Halls*

Probation departments are responsible for the juvenile hall facilities where juveniles under the juvenile court jurisdiction are temporarily detained as they go through the court process or are committed by the court. More than 10,000 juveniles are admitted to juvenile hall each month, with the length of stay averaging 30.7 days, according to the most recently available data.<sup>86</sup> Juvenile halls are generally used only for temporary detention assessment, for short court commitments, or as a detention alternative while a juvenile awaits other placement. When it becomes necessary to remove juveniles from the community or from parental custody, they may be placed in foster homes or private facilities, committed to county camps or ranches, or committed to the California Youth Authority (CYA).

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<sup>86</sup> California Board of Corrections, *Juvenile Detention Profile Survey Report, 3<sup>rd</sup> Quarter Report 2002*.  
<[http://www.bdcrr.ca.gov/fsod/juvenile%20detention%20survey/2002/quarter\\_3/survey\\_results.pdf](http://www.bdcrr.ca.gov/fsod/juvenile%20detention%20survey/2002/quarter_3/survey_results.pdf)>  
> (as of December 30, 2002).

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### County Ranch/Camp Facilities

While most counties have juvenile halls, fewer have ranch or camp facilities. Ranch and camp facilities provide a local placement option for juveniles with a history of serious or extensive delinquent behavior. The stay in a camp or ranch facility is now averaging 112.5 days.<sup>87</sup> Generally, when a stay at a ranch facility is required, juveniles are under close supervision and required to participate in education and treatment programs. Failure to comply with conditions may result in termination of probation and possible commitment to CYA.

### Adult Work Furlough Services

Some probation departments are also responsible for operating adult work furlough programs. In these types of programs, probationers live in a facility under close supervision but are allowed to go to jobs during working hours. Programs generally combine close supervision with a rehabilitation element to ensure public safety.

### Electronic Monitoring

Increasingly sophisticated technology is making the close surveillance of offenders in the community easier and more affordable. Electronic monitoring provides the probation department with an alternative to in-custody supervision and is considered a very viable, economical option on the custody continuum. While it is impractical to have probation officers constantly watching offenders, electronic surveillance tools permit heightened surveillance at a fraction of the cost of traditional supervision. Many probation departments make use of electronic monitoring in conjunction with other forms of supervision, thus freeing time for probation officers to attend to the offender's rehabilitation needs, while maintaining public safety.

### *PROBATION EMPLOYMENT ISSUES*

Although the task force charge does not specify a review of employment issues, the task force recognized early in its examination that employment issues are integrally connected to the delivery of quality services. During outreach efforts and task force discussions, a broad range of employment issues was raised. A complete assessment of probation employment issues was well beyond the scope, available time, and resources of the task force.<sup>88</sup> However, the task force determined that it was critical to undertake a preliminary assessment of the most prevalent probation employment issues. There is a clear recognition that employment issues affect service delivery and the perceptions of the community, victims, probationers, and the employees themselves regarding the probation system.

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<sup>87</sup> *Ibid.*

<sup>88</sup> Task force members noted the somewhat analogous effort of the Task Force on Trial Court Employees (see <http://www2.courtinfo.ca.gov/tcemployees/>), which was a separate, statutorily created body (Stats. 1997, ch. 850) tasked with examining employment issues following the realignment of the responsibility for trial court operations. The work of the employee task force suggests the complexity and scope that might be expected in a comprehensive examination of probation employment issues.

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### Employment Issues

*The task force identified and recognized major areas of concern relating to probation employees. These issues include, but are not limited to, the following:*

- Employment standards, including experience and education requirements;
- Sufficiency of training and safety equipment;
- Support for probation as a provider of essential community services;
- Sufficiency of pay and benefits to acknowledge and compensate the professional status of probation officers and custody facility employees; and
- Recruitment and retention of probation employees.

### *Education and Experience*

Many stakeholders expressed great concern over the issue of qualification requirements for potential new probation employees and how these requirements related to compensation. Some observed that educational standards set for new probation employees are inequitable when compared to the hiring requirements for other justice system employees. For example, in most counties probation officers are required to have a college degree, while most law enforcement agencies do not require more than a high school diploma, yet law enforcement officers often receive higher salaries. Many job functions of probation and other peace officers are similar—performing investigations, making arrests, and protecting the public—and they generally work with the same clientele. The task force felt that this issue should be examined closely to remedy what is perceived by many to be a disincentive to probation employee recruitment.

The education and experience of the CPO also was raised as a critical issue. Stakeholders voiced strong concerns that department heads should be required to meet certain minimum educational standards and bring to the position appropriate experience and background in probation. The task force recognized that a statewide standard on the qualifications of the CPO might be appropriate at a future date if probation were to function under a state probation model. However the task force, cognizant of the need for local flexibility, particularly under the current county-based system, deferred discussion on the merits of qualification standards.

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### *Training*

From the late 1970s to the early 1990s, when probation departments were faced with diminishing resources, many agencies greatly, if not completely, reduced recruitment of new officers.<sup>89</sup> As a result, many probation departments now are faced with a gap in staff experience; with a wave of officers reaching retirement age, departments are left with very few staff members who have more than 10 years of experience. The remaining probation staff, for the most part, consists of probation officers with 5 years or less time on the job. The result of this experience gap is that there are few experienced journey- or mid-level employees to mentor younger, less experienced staff. Senior management has the added pressure of ensuring that the quality of probation managers and line staff services is maintained at an acceptable level of performance.

Many stakeholders have the perception that the training for new probation staff is insufficient. Many probation employees stated that they are being required to work beyond areas of training and expertise. Some stakeholders stated that there is a need for more training in mental health issues and perhaps even collaborative training with partner organizations.

### *Equipment and Technology Issues*

Stakeholders frequently raised concerns regarding the provision of appropriate safety equipment to deputy probation officers. These discussions centered on both arming and the availability of tools necessary for probation officers to do their job. The current statutory framework<sup>90</sup> allows arming decisions to be made by the CPO at the local level, in a context in which the best information about the safety issues presented in that county can be considered. In view of the task force's fundamental principle 3, which emphasizes local control, the current statutory framework for arming appears appropriate.

In addition, other safety equipment may be provided to probation employees when it is appropriate. The task force recognizes the need for probation to make the best use of available and innovative technologies to enhance service delivery. There are a number of tools and technologies that could be more fully integrated in a cost-efficient manner to deliver services more efficiently. Depending on local needs and circumstances, equipment and technologies such as cell phones, laptop computers, personal digital assistants, and automatic downloading by phone linkage could benefit local probation departments and lead to improved services delivery and working conditions for probation employees.

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<sup>89</sup> Stakeholder Survey Results, pp. 46–47.

<sup>90</sup> Pen. Code, § 830.5.

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### *Probation Status*

Task force members devoted considerable discussion to public perception and the status of probation. During stakeholder events, many comments surfaced indicating that probation does not share the status of other public safety agencies in the community. Task force members recognize the need to address the status of probation in the community, encourage discourse about the unique and critical role of probation, and raise public awareness about the services and functions of probation agencies. A key function of the task force examination is to educate, and to encourage the ongoing education of, policy makers, the public, and probationers about probation, with a view toward enhancing the status of the system statewide.

The task force recognizes the need to address the status of probation in the community and to raise public awareness about the unique services and functions of probation departments.

In some jurisdictions outside of California, probation departments, as part of larger efforts to improve and expand their role and status in the community, have undergone a name change. Views expressed by stakeholders and task force members indicate that changing probation's name to, for example, the Department of Community Justice, might be an important shift yielding several benefits. First, the new designation would enhance the standing of probation by emphasizing its unique dual role, and it would identify probation as an essential community partner in the justice system. A major shift in the delivery of probation services or significant governance reform may warrant consideration of a name change.

### *Recognition and Compensation*

Retirement benefits available to probation employees were another key issue raised by stakeholders in various outreach forums. Currently, decisions to extend safety retirement—which offers a higher retirement benefit to peace officers than to other public employees—to probation officers are made at the local level, meaning that in neighboring counties great disparities in benefits could potentially exist. While the task force recognizes that safety retirement and compensation levels for probation officers are issues, it is also important to point out that these decisions are currently and, under the current structure, most appropriately made at the local level. Pay and benefits also must be commensurate with responsibility.

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### *Recruitment and Retention*

Several recruitment and retention problems were highlighted for the task force through outreach efforts. The identified source of the problems varied. Many stakeholders mentioned that differences in levels of compensation and retirement benefits across jurisdictions often attract probation officers away to other counties. Another common theme centered on the instability perpetuated by grant funding: departments are often forced to make limited-term hires for specific grant-funded programs, and this lack of certainty and job security undermines employees' loyalty and sense of permanency. Specific recruitment and retention issues identified include the following:

- Loss of employees to other county, state, and federal law enforcement agencies due to higher salary and benefits packages;
- An increasingly less experienced pool of employees;
- High turnover, with employees leaving for other justice system careers shortly after the department devotes significant training resources; and
- Lack of incentives for advancement within probation departments.

Further study and improvement should be made in the area of recruitment and retention of probation employees.

### *COLLABORATION*

An overriding theme arising in the surveys, interviews, forums, and meetings of the task force is that more cooperation, coordination, and partnership agreements result in better practices, services, and satisfaction by stakeholders. Repeatedly, stakeholders testified

An overriding theme arising in the surveys, interviews, forums, and meetings of the task force is that more cooperation, coordination, and partnership agreements result in better practices, services, and satisfaction by stakeholders.

that partnership programs are perceived to be the most successful and are the most accepted services. Many probation departments participate in a system of care with other county departments, including mental health, education, drug and alcohol, and child protective services, to better serve juveniles and their families. This collaborative approach is encouraged by the Legislature and voters as a

more effective way to serve community needs. For example, counties are required to establish juvenile justice coordinating councils<sup>91</sup> to be eligible for specified grant funding. Although these councils are mandated in the juvenile arena, the task force discussed that it would be appropriate for their purview be broadened to examine and address adult concerns.

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<sup>91</sup> Welf. & Inst. Code, §§ 225, 749.22.

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### *CONCLUSION*

This section sets forth some of the task force's core observations regarding the current operations and status of probation. It is understandable that, given the sheer size of probation populations in California and the historic underfunding of the system, a number of complex challenges threaten the efficacy and success of probation department services. While the task force has been substantially educated about these challenges, the issues presented will require additional time and study before a comprehensive set of conclusions can be drawn or policy recommendations can be formulated. As discussed in the next section, the task force concludes that a statewide probation system that conforms to the fundamental principles set forth in Section II promises to be of greatest benefit to courts, counties, and probationers. However, the task force also recommends that the counties and the branches of state government establish a body tasked with developing a specific, long-term reform model and an implementation plan.

Thus far, this report has discussed where probation began and its current state. The next section, "Probation Future," discusses the recommendations of the task force for the future evolution of probation.

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## SECTION V

## Probation Future

This section introduces the key recommendations being set forth by the task force. In large part, these recommendations serve as a guide to the assessment of probation services in California and of a new model for probation services. The task force is encouraging all participants in the probation system to examine and digest the recommendations with a view toward working on implementation, where applicable, without delay.

*FUNDING*

Probation departments are funded through a mix of federal and state grants, local funds, and offender fees. Probation department budget increases seen in the late 1990s and up to 2002 have been supported largely by one-time grants and other unstable funding sources. It is highly unlikely that counties will be able to increase needed probation department resources in the foreseeable future. As California navigates a period of fiscal uncertainty, the need for a stable funding base becomes increasingly critical.

RECOMMENDATION 1: Probation departments must have stable and adequate funding to protect the public and ensure offender accountability and rehabilitation.

*GOVERNANCE*

One of the primary reasons the task force was created was to address governance issues. California is the only state in the nation to follow a strictly local operational model.<sup>92</sup> The governance of probation rests at the local level and is shared between the judicial and executive branches of local government. One of the principal functions of probation departments is to carry out orders of the court, and, in most counties, the CPO is appointed by the court. The task force learned through its outreach efforts that the prevailing opinion is that probation clearly aligns itself with the court and that probation officers clearly view themselves as an arm of the court. However, probation is a county department, with the CPO serving as a county department head, and the executive branch ultimately has the budgetary, management, and fiscal responsibility for the operations of the probation department.

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<sup>92</sup> B. Krauth and L. Linke, *State Organizational Structures for the Delivery of Probation Services* (June 1999) table 3: Primary Funding Sources for Adult Probation Services, p. 8.

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California's bifurcated governance model places pressures on the system. Anecdotally, task force members learned that the CPO could be presented with conflicts owing to the "two masters" structure. The court, for example, could request that the probation department provide a higher level of service than the county is able to fund. Or the county could be unable or unwilling to fund the probation department at a level sufficient to provide a service requested by the court. Another potential byproduct of the governance structure is that a CPO who reports to two entities may also have a sense that neither entity can actively champion the cause of probation.

There is a broad sense among stakeholders that retaining maximum local flexibility in the area of governance is optimal. However, the task force concluded that the current governance structure is unsatisfactory in many respects. While members were able to arrive at this conclusion with relative ease, the next step—identifying an alternative to the existing structure—proved to be the biggest challenge facing the task force. The task force went to extraordinary efforts to outline a new model for probation in California that would ensure effective services, establish clear lines of responsibility, encourage collaboration among justice system partners, and secure adequate and stable funding.

### *The Process Undertaken for Developing a New Model for Probation*

In addition to its information gathering through roundtable discussions and other outreach efforts, the task force examined probation models from across the United States and surveyed the probation department in every county in California. As the task force began looking at development of the California Probation Model, it became increasingly clear that probation does, in fact, function as an arm of the court, and that certain probation services are intrinsically linked to the courts. Probation departments also serve an equally important, yet distinct, role in detaining juveniles in correctional facilities and providing community prevention services—activities that are not traditionally associated with the judicial branch.

The task force delegated initial responsibility for examining alternative governance models to the governance subcommittee. The subcommittee began its analysis of possible models for probation's organizational and funding structure by identifying eight models that either existed in other jurisdictions or that appeared to contain other viable or desirable elements. The subcommittee identified the components of each model, determining the appointing, evaluation, and removal authority with respect to the CPO. The committee also determined who would be responsible for liability, funding, and the administration of probation services under each model. The models that were analyzed include the following:

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- Local or state commission;
- State executive;
- Local executive;
- State judicial;
- Local judicial;
- Elected;
- Combination (county level); and
- Combination (state level).

Following the identification and brief examination of all models identified by the governance subcommittee, the task force met and narrowed the focus of its examination. The task force spent the bulk of its time examining the three alternative models—(1) local, (2) court, and (3) state executive—that appeared to be in accord with the fundamental principles (see section II). Consistent with fundamental principle 1 of the task force, each model assumed that the appointing authority of the CPO and the fiscal responsibility for probation services are connected. The task force called on national probation experts and probation/correction officials from other states to provide information on the strengths and weaknesses of their respective systems. However, the task force recognized that the size and complexity of California necessitates creation of a system tailored to the needs of California rather than the adoption of a system that, despite showing successes in another jurisdiction, is not suited to the needs of this state.

Table 9 sets forth the three probation models examined by the task force and the variations within each model. These variations generally involve differences related to which party has appointment, evaluation, and removal authority over the CPO. The local model is set forth in the set of three shaded columns at the left. There are three variations of the local model: court, county, and hybrid systems. The court model, which is set forth in the unshaded columns in the middle, has two variations: local oversight by the trial courts and oversight by the Administrative Office of the Courts. The state model is outlined in the two shaded columns at the right. In this model, the state executive branch would oversee probation, with the court or a local committee administering the appointment, evaluation, and removal processes.



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Model	Local Model			Court Model		State Model	
	Local – Court (except in Charter Counties)	Local – Executive	Local – Hybrid	Local – Court (Trial Court Funding)	State – Court	State – Executive (Court)	State – Executive (Committee)
<b>Base Funding (Grants)</b>	State and federal grants	State and federal grants	State and federal grants	State and federal grants or AOC	State and federal grants or AOC	State executive	State executive
<b>Additional Funding</b>	N/A	BOS	BOS	AOC	AOC	State executive	State executive
<b>Liability</b>	BOS	BOS	BOS/AOC insurance policy	AOC	AOC	State executive and/or AOC insurance policy	State executive
<b>State Standards</b>	None	None	None or Judicial Council	Judicial Council	Judicial Council	State executive	State executive

AOC: Administrative Office of the Courts

BOS: Board of Supervisors

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### Local Model Variations

The authority for the core governance functions—appointment, evaluation, and removal—could potentially take one of three shapes in a local probation system: (1) the court, (2) the board of supervisors, and (3) joint or shared authority between the board of supervisors and the court.

Under the first variation, the status quo would, in large part, be maintained. The CPO would continue to be appointed and removed by the court (except in charter counties) and evaluated by the court and/or board of supervisors, depending on local practice. The county would provide base funding, with state and federal grants furnishing supplemental funding. Legal and fiscal liability would rest with the county. Under this model, there would be no mechanism for the creation of statewide probation standards. The task force rejected this model because it perpetuates the inherent problems in the existing probation system, which will not be resolved until other reform occurs. The task force concluded that a different structure that conforms to the fundamental principles must be put in place to sufficiently elevate probation's status and improve services and funding.

Under the second variation of the local model examined, the CPO would be appointed, evaluated, and removed by the county board of supervisors. The funding and administrative structures would be retained at the local executive branch level. Promulgation of statewide standards or guidelines would be difficult under such a model. This model variation is undesirable because it removes the court from the governance of probation and because it contains the same deficiencies identified with the local court model.

Under the local hybrid model, a number of options would be available regarding the appointment, evaluation, and removal of the CPO. The court and county government could have equal appointing, evaluation, and removal authority. One party could appoint/remove the CPO, with the other party holding veto power; or one party could select acceptable candidates from which the other party would appoint the CPO. Any of these decision-making options would be applied to the evaluation and termination authority of the CPO as well. The board of supervisors, the court, or both would administer probation services. The existing funding structure would be retained, and legal liability would rest with the board of supervisors and/or the judiciary. The Judicial Council, with the assistance of a probation services advisory committee, could develop statewide standards and guidelines. While this model was discussed at length, it, too, presented major administrative complications that were not immediately resolved by the task force.

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### Court Model Variations

A court-based probation system could be vested at the local or state level. Under a local court model, the local judiciary or a local probation service center, administratively distinct from the local court, would administer probation services. Authority for the appointment, evaluation, and removal of the CPO would rest with the local court. The board of supervisors would provide base fiscal support through the establishment of a maintenance-of-effort agreement (MOE), and the probation system would be supplemented by grants and state funds. Liability would rest with the state judiciary, and the Judicial Council, with the assistance of a probation services advisory committee, would promulgate statewide standards and guidelines.

Alternatively, the authority to appoint and remove the CPO could be vested with the court and the Administrative Office of the Courts (AOC), with CPOs evaluated by the AOC. Probation would be administered and funded by the AOC, with base funding coming from the county in the form of an MOE, and supplemental funding provided by grants and the judiciary. The Judicial Council, with the assistance of a probation services advisory committee, would develop statewide standards.

The task force spent much of its second phase grappling with the various implications of a model under which the judiciary would assume responsibility for probation or functions provided by probation. The task force explored ethical issues related to probation officers becoming employees of the judiciary such as whether a judge could hear (1) cases involving lawsuits against probation officers and (2) cases where the judge is asked to assess the credibility of employees at probation violation hearings. The task force also discussed the ethical implications of having judges administer detention facilities in addition to the current the presiding judge of the juvenile court already is vested with responsibility under Welfare and Institutions Code section 209 for inspecting such facilities. After much discussion and debate, the task force concluded that while some of these questions raised issues needing resolution, the ethical issues should not serve as a hindrance to the judiciary's assumption of oversight responsibility for probation services.

With regard to the concerns related to probation officers becoming employees of the judiciary, the task force was fortunate to be able to draw on the procedures developed by the Task Force on Trial Court Employees, which was charged with establishing a personnel and governance structure for court employees. With regard to an employee of the court being a party to a lawsuit and ethical issues under the canons of judicial ethics and Code of Civil Procedure 170.1 related to disqualification, provisions were developed for assigned judges and sitting appellate justices from another appellate district to hear

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those cases.<sup>93</sup> The task force believes that these or similar procedures would be equally applicable to probation employees in a court-centered probation model.

The task force also discussed the implications of probation employees testifying in probation violation hearings, where the court would be assessing the credibility of an employee and making a determination as to whether a probation violation had occurred. The task force distinguished judgment calls and credibility issues in that it is the probation officer's role to make judgment calls that the judge must then evaluate. There appeared to be no ethical concerns regarding judges' evaluation of judgment calls of their employees; in fact, other court employees—namely family law mediators and child custody evaluators, are regularly called to testify. However, when the judge must assess the credibility of a witness who is an employee, the question becomes whether a reasonable person would conclude that a judge, in fact, could *not* be fair in assessing the credibility of such employee. In situations where the employee has a direct economic interest in the case, then the judge would have a conflict and should not hear that case. However, where the employee is a witness and the issue is just a matter of credibility related to a conclusion that does not have a direct impact on the employee, a strong argument can be made that a reasonable person would not conclude that the judge should recuse himself or herself due to an ethical conflict.

While the unique issues presented by probation officers becoming employees of the court did not raise insurmountable objections, the realignment of certain probation functions with the judiciary presented more serious concerns. The assumption of responsibility for detention and treatment facilities by the judiciary emerged as a major obstacle for both variations of the court-centered model. Issues of particular concern to the judicial representatives on the task force—should the model contemplate removing the detention function from executive branch oversight—included separation of powers, conflicts of interest, and liability. Additional concerns were raised regarding the financial responsibility for building new and maintaining existing facilities; the assumption of legal liability for injuries or losses that occur in and around facilities; and the responsibility for managing, staffing, maintaining, and responding to liability for facilities.

In an attempt to resolve concerns regarding the oversight of detention and treatment facilities, the task force formed working groups during its first phase to examine various models for administrative responsibility and liability for juvenile facilities. The four models examined are a court model; a state model; a model in which the CPO, as an employee of both the court and county, oversees juvenile facilities; and a model in which the county administers probation and associated facilities. In this last model, a collaborative appointment, evaluation, and removal process would be instituted.

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<sup>93</sup> Stats. 2000 ch. 1010 (Sen. Bill 2140 [Burton]).



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In examining and assessing the feasibility of the various facilities models, it became clear that the majority of the judiciary continued to oppose assumption of oversight responsibility for detention and treatment facilities for a variety of reasons. The principal opposition stemmed from problems relating to separation of powers between the executive and judicial branches of state government. Judicial stakeholders expressed firm beliefs that detention is an executive function and that judges cannot and should not run a facility to which they make regular referrals. The statutory obligation under Welfare and Institutions Code section 209 requiring the juvenile court presiding judge to inspect such facilities also raised major concerns for judicial representatives. The task force discovered that any ethical issues raised regarding facilities might already be problematic because of the court's current role as the appointing entity for the CPO. Judicial representatives on the task force clearly articulated the view that facilities administration presented the potential for numerous conflicts; simply put, how could courts both oversee detention facilities and respond to litigation regarding claims of overcrowding or substandard conditions in such facilities? Currently, the court may have a perceived vested interest as the appointing entity, and a shift in facilities governance would increase the role of the court in facilities administration and could alter the ability of judges to conduct neutral inspections.

Further, there is a general concern that assumption of responsibility for detention facilities places the judiciary, typically the neutral arbiter, in a position of advocacy and responsibility. While in recent years, with the advent of trial court funding, the judiciary has assumed an advocacy role with regard to court employees and court facilities (e.g., negotiating employment contracts), court staff are the personnel directly accountable for the operation of the court, and court facilities are the buildings in which the courts operate. Detention institutions are not established for the support of the court; instead, they are established for rehabilitation and detention. While judicial representatives acknowledged that shifting responsibility for detention facilities to the courts does have some merit, they also noted that such a shift would fundamentally alter the role of the judiciary and should be considered only after much examination and full study of potential implications.

The issues explored above emerged as severe hindrances to a recommendation that contemplates assumption of probation facilities by the judiciary. It should be noted that while the majority of the judiciary has serious concerns regarding the assumption of responsibility for detention facilities, a minority of the judiciary feels that these problems are not insurmountable under a state or judicial branch model as such systems exist in other states. Conversely, CPOs and probation stakeholders strongly believe that oversight of facilities belongs on a continuum of services that includes sanctions, and that administration of these facilities must remain administratively linked to the other services on that continuum. Furthermore, counties observed that unless services and facilities

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were completely severed, they could not conceive of a system under which facilities could be operated without a close, rational connection to the programs and services provided within. Therefore, if operational authority over services and programs were to be realigned to a state entity, then counties must similarly be divested of the facilities.

### Executive Model Variations

Last, the task force examined the creation of a new state executive branch department to oversee probation. In the state executive model, the local court, possibly in conjunction with the board of supervisors or representatives from the state executive branch agency, would have authority to appoint, evaluate, and remove the CPO. The local court and/or board would also have administrative responsibility over probation. The county would provide base funding, and the state executive branch would provide additional funding. Liability would rest with the state executive branch, and the state executive branch would promulgate statewide guidelines and standards.

After examination of the three models selected from the original eight, and after looking closely at models in Arizona, Deschutes County (Oregon), and Texas, the task force recognized that each of the models under consideration presented major issues pertaining to facilities responsibility and liability, potential conflict of interest, and financial and administrative complexities. The task force attempted to take the differing interests of all parties into consideration when drafting the probation model described below.

### *A New Model for Probation*

After nearly three years of study, the task force has made a number of key findings, all of which build on a core assumption: the status quo in the probation system is not

After nearly three years of study, the task force made a number of key findings, all of which build on a core assumption: the status quo in the probation system is not acceptable.

acceptable. Despite the dedication of countless probation service providers, the probation structure as it exists today functions poorly on many levels. The split appointment authority, historic levels of underfunding, and the resulting variation in service levels and programs from county to county promise to further erode probation departments' collective ability to provide a unified

and critical set of justice services upon which our courts, communities, victims, and probationers rely.

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### Significant Factors Challenging the Probation System

*As this report discusses in detail, all of the following factors contribute to the current state of the probation system:*

- The split appointment authority creates internal and external conflict between courts and counties and interferes with both parties' ability to meet their respective responsibilities associated with probation.
- Few of the workload or cost drivers in the probation system are within a county's control. Probation departments must carry out duties as dictated by legislative mandate, state policies, state budget decisions and administrative directives, and court orders.
- Probation departments rely on county funding and state support through grants and subventions, which are largely unpredictable and insufficient.
- Programs and service levels vary from county to county, and, very often, funding availability drives programmatic decisions.

The task force concluded that these factors, taken as a whole, point to the need for a new governance structure for probation. In the paragraphs that follow, the task force lays out the rationale that has led to the conclusion that the model promising to offer greater fiscal and programmatic stability, improved service delivery, and a rational governance structure is one that contemplates a realignment of probation services with the state.

RECOMMENDATION 2: California should develop a new approach to probation governance that conforms to the five fundamental principles developed by the Probation Services Task Force.

While the task force is cognizant of the remarkable fiscal difficulties facing California, it became clear to the task force that a stable and adequate source of funding must be provided to probation to ensure public safety and the rehabilitation of offenders. It also became evident that a reconfiguration of existing resources under a state model would alleviate the difficult circumstance that exists now for probation departments owing to a bifurcated governance system. The task force has established that the California probation system, although funded through the counties, is to a great extent closely aligned with the courts, on both programmatic and functional levels. Further, it has been demonstrated that probation departments receive their funding and are administered as a county department, while their workload and costs are primarily driven by factors—legislative mandate and court orders—over which the county has no control. Counties bear the responsibility for all costs associated with probation, including those associated with activities that are not traditional court operations such as detention, prevention, and intervention.

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Fortunately, in suggesting that the state begin to assume greater responsibility for probation, the task force notes that there is a model upon which to build: trial court funding. In centralizing the operations of the trial courts at the state level, primarily through the passage of the Trial Court Funding Act of 1997, the Legislature acted on its previously established principle that the funding of trial court operations is most logically a function of the state. Such funding, the state reasoned, was necessary to provide uniform standards and procedures, economies of scale, and structural efficiency and simplification. These same principles apply in the case of probation.

In keeping with the logic of trial court funding, structural improvement of the probation system and realignment of certain probation responsibilities would provide improved delivery of services, a more uniform and equitable court system that would increase access to justice for the citizens of California, and a rational governance system. The task force's proposal would transfer the responsibility for the cost of probation services to the state or to a state entity, such as the court system. This proposal represents a logical step in the ongoing reevaluation of the division of functions and responsibilities, as they relate to court-connected activities, between courts and counties.

As it did in the early stages of trial court funding reform that began in the 1980s, the Legislature should recognize that the state must phase in increasing support for probation. The current funding structure for probation leaves many departments in circumstances of great instability, especially when the state—as it does today—faces

As it did in the early stages of trial court funding reform that began in the 1980s, the Legislature should recognize that the state must phase in increasing support for probation.

extreme fiscal hardships that require dramatic reductions in state support of county operations and major cost shifts away from county treasuries. In reaching the conclusion that probation must become a more centralized program, the task force clearly recognizes that transfer of program responsibility is extraordinarily complex and may require a phased-in approach over a multi-year period. The task force views its work contained within this report as the establishment of the

foundation and framework for a major shift could be accomplished through a process involving the many key stakeholders in the probation system. The task force joins in the finding stated in the Lockyer-Isenberg Trial Court Funding Act of 1997 which can equally be applied to the probation structure: “[i]t is increasingly clear that the counties of California are no longer able to provide unlimited funding increases to [probation] and, in some counties, financial difficulties and strain threaten the quality and timeliness of [probation services].”<sup>94</sup>

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<sup>94</sup> Stats. 1997 ch. 850 (Assem. Bill 233 [Escutia]).

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Transferring and centralizing program responsibility for probation would accomplish many important objectives. First, it would offer a centralized, stable funding base to probation departments. A statewide model would provide probation with a greater capacity to advocate for its needs on a statewide basis. Further, a statewide model would provide a direct connection between authority and responsibility for providing probation services.

Recognizing that the process by which a statewide probation model can be established may take many years, the task force recommends that increased collaboration between courts and counties be encouraged. Interim steps must be undertaken to ensure further advancement of a more realistic and practical realignment of probation responsibilities, and ongoing studies in a number of critical areas also are needed.

### Additional Studies Needed

*A number of additional studies need to be undertaken to address topics including, but not limited to, the following:*

- A clear definition of core probation services proposed for transfer;
- The impact of the proposed statewide model on probation employment issues;
- An analysis of current laws and mandates that drive probation workload;
- A complete assessment of fiscal impacts; and
- The disposition of detention facilities.

The task force has outlined steps toward a model that preserves probation's role in providing services to the community while enhancing its connection to the courts. Section VI sets forth specific steps for future study of these issues. The task force encourages counties, courts, and probation to continue to work together in gathering this vital information and moving toward a new model for probation.

### *An Interim Model for Probation Governance*

The task force is cognizant of the fact that any change in probation governance must be based on a thorough understanding of the work of probation as well as the fiscal and operational impacts of such a change. Toward that end, the task force developed an interim model for the appointment, evaluation, discipline, and removal of the CPO for introduction in the 2003 legislative session. Under this interim model, probation would continue to operate as a county department, and the CPO would remain a county officer. The task force has encouraged court, county, and probation advocates to work collaboratively on a legislative effort to alter the current statutory scheme by codifying the concepts contained in the interim model (version 2) described below. It is not the intent of the task

The task force concluded that certain issues, namely those surrounding the appointment, evaluation, and removal of the CPO, need an immediate remedy while efforts continue to develop a long-term proposal for probation governance.

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force to introduce a model that would apply to charter counties or those counties in which a merit or civil service system defines the appointing authority. Nor is it the intent of the task force that current CPOs, for purposes of their current positions, should require reconfirmation under any new appointment procedures that may result from this proposal.

To develop a model acceptable to counties, courts, probation, and other stakeholders, the task force devoted significant time to developing the model and reviewing feedback received from stakeholders during the open comment process.

Initially, the task force circulated a model (version 1) that would have created a local probation oversight committee with equal membership from the court and the county government to oversee the CPO's appointment, evaluation, discipline, and removal. The proposal was viewed as an initial step to address, at least in part, the issues of the appointment and retention of the CPO.

Version 1 of the interim model was circulated for comment in July 2002, and interested parties were given 30 days to comment. The task force met in September 2002 to examine public comment received and, based on public input, subsequently concluded that version 1 was unsatisfactory for a number of reasons, including existing successful local efforts. The task force then developed an alternative interim model (version 2).

In devising version 2, the task force attempted to address the concerns identified regarding version 1, particularly those comments indicating that many counties are already engaged in collaborative efforts at the local level. Therefore, version 2 contains two distinct tiers. The first tier requires the county and court to meet and develop a local agreement that formalizes a process for screening, hiring, evaluating, and disciplining/removing the CPO. While the task force strongly urges that local agreements contain a collaborative process, the process may take any form, as long as both the court and the county formally agree to its provisions. This agreement would remain in effect until such time as it is superseded by a new agreement or rescinded by either the court or county.

However, if the county and court within a jurisdiction are unable to enter into an agreement, or if either party rescinds an existing agreement, the default model set forth in tier II would go into effect. Under the tier II default process, candidates for the position of CPO would be nominated by a committee consisting of members of the county government (members of the board of supervisors) and the court (judges) in equal numbers following a screening process involving the juvenile justice commission. Members of the nominating committee would be required to unanimously approve all candidates forwarded to the appointing entity. The appointment of the CPO would be made by the entity that currently retains appointment authority. Once a CPO is appointed,

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the county and court would jointly conduct an annual evaluation of the CPO. With regard to personnel actions, the entity currently responsible for personnel actions against the CPO would retain that authority; however, the entity that does not have appointing authority may recommend personnel actions regarding the CPO to the appointing authority, and the entity with the appointing authority may not take negative personnel actions (regarding employment status) against the CPO without the approval of the other party (the entity without appointing authority).

The task force is hopeful that the concepts contained in version 2 will be enacted in the 2003 legislative session while counties, courts, and probation continue working toward a new model for probation in California.

### *STANDARDS AND GUIDELINES*

As discussed in section IV, probation departments deliver quality programs and administer numerous exemplary services. However, substantial variation exists in the types of services offered in each of the 58 counties. While state law mandates certain probation services in all counties,<sup>95</sup> other programs are county specific based on local needs. Often, these programs are pilot or demonstration programs or operate on a limited-term basis supported by a fixed cycle of grant funding. Local needs, community requirements, funding constraints, and the absence of statewide standards in most core program areas have encouraged the growth of services and programs that best fit local needs.

RECOMMENDATION 3: Probation standards and guidelines should be developed and maintained to enhance the delivery of services to courts, communities, victims, and probationers.

The task force concluded that, while statewide standards and guidelines may be appropriate at a future date, given the current county-based probation system, statewide standards cannot be imposed on local jurisdictions without corresponding financial assistance. The task force was encouraged by the efforts of the Chief Probation Officers of California to further best practices and uniform procedures.<sup>96</sup> At a minimum, local probation departments should develop and maintain standards and guidelines for the delivery of probation services that meet community needs. The task force recognized that many probation departments already have standards and guidelines in place, but in an effort to encourage the development of standards and guidelines, it developed the sample guidelines found in appendix G.

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<sup>95</sup> See appendix F.

<sup>96</sup> The task force commends probation standards developed by CPOC in January 1980 and encourages continuation of such efforts.

*MISSION STATEMENTS WITH GOALS AND OBJECTIVES*

As discussed in section III, outreach efforts and stakeholder input clearly points to the value of probation departments' development of mission statements. Typically, a mission statement declares the main purpose of an organization. The objectives provide the specific action steps required at every level of the organization to implement the mission and ensure that all employees are working toward the same goals. Mission statements are especially significant in organizations that have many new employees with limited experience, a phenomenon that reportedly exists in many probation departments statewide. Although 85 percent of the responding counties stated that they had written mission statements for their departments, survey results also indicated that some probation departments lacked mission statements and objectives. More than half of the counties with mission statements had written them during the past 5 years. Almost one-third of the responding counties indicated that their mission statements had not been reviewed in the past 10 years.<sup>97</sup>

RECOMMENDATION 4: Probation departments should develop and annually review mission statements with clearly defined goals and objectives.

The task force concluded that mission statements are most effective when they are targeted at the unique characteristics and needs of the local population and thus must be developed at the local level. Stakeholder collaboration and input are essential ingredients in the successful implementation of a probation department's mission statement. Many elements will be common to most mission statements and accompanying goals and objectives (e.g., an emphasis on public safety), but other elements will vary greatly because of the diversity of the locales and populations throughout the state.

A well-thought-out and clearly stated mission statement that is reviewed but not revised annually and that contains precisely communicated goals and objectives can be a useful tool for focusing a department and its collaborative partners on the tasks they set for themselves. To maximize the benefit to be derived from the formulation of mission statements, all aspects of the mission, goals, and objectives must be understandable and clearly defined.

While mission statements are necessary to properly manage a department, they also help the department communicate its mission and function to the public and community. A strictly internal mission statement may be useful, but a greater benefit will be achieved when a clearly defined mission statement accompanied by goals and measurable

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<sup>97</sup> Stakeholder Survey Results, p. 31.



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objectives is effectively communicated to the public. When there is successful external communication of probation's role in the community, the public perception of probation then can be based on probation's success or failure in achieving its goals and objectives.

In July 2002, the Chief Probation Officers of California (CPOC) developed the following mission for the organization and probation departments in California "The mission of CPOC is to provide leadership in the mobilization, coordination, and implementation of Probation programs that provide for public protection including detention and treatment, victim services and the prevention of crime and delinquency; and to insure the provision of quality investigations and supervision of offenders for the Courts."

RECOMMENDATION 5: Probation departments should incorporate measurable outcomes in developing goals and objectives.

Measurable outcomes are necessary to determine not only what is working in a department, but also what is not. Once a probation department has developed a mission statement with goals and objectives, the next step in the process is to establish measurable outcomes so that the success or failure in achieving the stated goals and objectives can be objectively evaluated. Measurable outcomes range from items such as a reduced juvenile hall population to decreased truancy. To the extent possible, measurable outcomes should be stated in positive or growth-related terms (increased number of juveniles completing school or getting a GED), rather than in negative or deficit terms (decreased recidivism). Outcomes can be measured by educational progress, relationship formation, leadership roles, and the taxable income generated by probationers over an extended period of time.

### *INFORMATION AND COMMUNICATION*

Communication and effective information systems are critical within probation departments, between probation departments, and in communications with other justice system participants. As the California justice system moves toward a coordinated approach, effective communication becomes increasingly important. Further, in a time of fiscal prudence, information takes on a key role in the identification of cost-effective services.

RECOMMENDATION 6: Probation departments should develop a common statewide language to facilitate communication, delivery of services, and comparisons across jurisdictions.

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To encourage effective communication, probation needs a common language. For example, employee titles, services, programs, and outcomes frequently do not share common definitions across county lines or among different county departments. Effective communication between and among stakeholder groups is a fundamental prerequisite for the development of statewide guidelines or standards and effective mission statements and strategic plans and their component measurable goals and objectives. Where there is potential for misunderstanding, extra effort must be made at the outset to ensure that all interested parties share a common language.

RECOMMENDATION 7: Probation technology resources should be reconfigured and augmented to enhance statewide communication and improve operational systems, resource allocation, and capacity for evaluation.

Technology touches every element of probation. At a time when probation departments are being asked to do more with available resources, technology is one of the most important tools probation departments have to aid in the development, evaluation, and improvement of programs.

The task force has not performed an in-depth review of probation technology and information systems in California; such a review and its accompanying recommendations could serve as the focus of an entire task force effort. However, the task force discovered during the information-gathering phase that certain technology-related concerns were prevalent. Stakeholders repeatedly stressed technology's potential uses in developing and strengthening collaborative efforts and in enhancing the delivery of services. In addition to computer automation systems, there are a number of tools and technologies that could be more widely incorporated, as discussed in section III.

Currently, probation departments do not share an automation system nor are there statewide technology standards. The absence of a standardized system makes any meaningful intra- or intercounty sharing of data impossible. In a state as large and diverse as California, a one-size-fits-all technological solution is not feasible. There is, however, a clear need for technology to be implemented in a way that will allow interconnectivity countywide and statewide. Information collection efforts must be improved to provide the data necessary for the development of more effective collaborative systems.

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At present, some counties do not have the resources to supply the hardware and/or software necessary to compile and deliver data for existing databases. The task force recognizes that even if a standardized system is developed, allowance must be made for flexibility and innovation at the local level if individual probation departments are to maximize strengths in their own diverse contexts.

Future legislation to fund technology development and improvement at the local level should be considered. The initial impetus for the creation of a state-level information system that allows county-to-county sharing of information will have to come at the county level. Most probation departments in California do not have enough staff to provide services and run an information system. Legislation may be necessary to fund technology for probation departments so that they have adequate personnel to maintain management information systems. Funding of necessary employee positions will be a major issue for medium- and small-sized probation departments if they are to implement and effectively use adequate technology systems. Systems will not be effective without staff support.

The technology issues of probation for adult and juvenile offenders are similar, but potential privacy issues relating to information about juveniles call for special attention. Legislation may also be necessary to deal specifically with privacy issues raised by the intra-agency sharing of information. Existing confidentiality statutes and regulatory provisions serve as barriers to information sharing.<sup>98</sup> Laws are designed to protect the rights of juveniles by ensuring confidentiality and restricting access to sensitive information. Laws also have the effect of limiting access to information about many juveniles who have come into contact with probation departments. The development of a statewide database to collect information regarding juveniles falling under any Welfare and Institutions Code designation would require a legislative change to existing laws.<sup>99</sup>

In an effort to explore models for a statewide probation services information system, the task force surveyed a cross-section of states<sup>100</sup> to determine whether the state had a statewide probation services information system and, if so, to gather information on the state's specific information system. The states provided input on interaction with other

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<sup>98</sup> Several laws designed to ensure confidentiality and restricted access to sensitive records protects certain juvenile offenders. For example, Welf. & Inst. Code, § 285, permits data to be reported only in the aggregate, without identifying information. While aggregate statistics are certainly valuable, individual-level data is essential. At present, the law prohibits linkage of county databases into a single statewide database (J. L. Worrall and P. Schram, *Evaluation of California's State-Level Data Systems for Incarcerated Youth* (Jan. 2000) School of Social and Behavioral Sciences, California State University at San Bernardino, p. 14 <[http://www.csus.edu/calst/Government\\_Affairs/Reports/ffp37.pdf](http://www.csus.edu/calst/Government_Affairs/Reports/ffp37.pdf)> [as of Nov. 28, 2001]).

<sup>99</sup> *Ibid.*

<sup>100</sup> Arizona, Florida, Georgia, Illinois, Iowa, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Texas.

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agencies, the transfer of electronic data, the entity responsible for maintaining the data, and the data entry process. In addition, each state was asked to provide information on any obstacles encountered while developing and/or implementing its system. Of the eight states that responded, Arizona, Florida, and Texas indicated that they have a statewide probation services information system.

The task force was also fortunate to discover that the American Probation and Parole Association (APPA) is the recipient of a grant from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, to develop a document defining functional standards that will assist probation agencies in implementing effective automated case management systems.<sup>101</sup> APPA notes that increased workload, changes in job tasks, and increased record-keeping requirements along with an enhancement in available technology for information management have prompted probation agencies to automate case management systems. However, the APPA also recognizes that the use of automated case management systems is sporadic, and the quality of information management systems is uneven among probation agencies nationwide. Limited availability of shared information among agencies forces each agency to struggle with independent development of automated case management systems, leading to inefficiencies and duplications.

APPA, in partnership with the National Center for State Courts, will identify adult probation agencies that employ effective case management practices and have automated case management systems and then will obtain written specifications from agencies having either exemplary case management practices or systems. Those specifications will be analyzed and, with the help of a standards development team, distilled to the common elements that comprise the functional requirements of a recommended automated case management system for probation agencies. The functional standards document was published in draft form for comments in late February 2003. The task force received the report too late to review the document before publication of this draft final report. The task force will review the report and incorporate recommendations as appropriate before the final release of the task force report in summer 2003.

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<sup>101</sup> See <<http://www.appa-net.org/help.html>> (as of Jan. 13, 2003).

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### *MANAGING THE PROBATION PROCESS*

Probation performs a unique and critical role in the criminal and juvenile justice systems, often serving as a linchpin among the many stakeholders. Probation officers draft reports; provide evaluations and recommendations to the court; and direct offenders to mental health, education, substance abuse, and other appropriate services. They also assess and provide services to low-risk offenders and intensive supervision and services to high-risk offenders.

RECOMMENDATION 8: Probation departments should develop assessment and classification systems and tools as part of an effective case management strategy.

All offenders, adult and juvenile, must be properly assessed so they can receive appropriate services and supervision. Case assessment and planning are important at two levels. First, assessment is necessary to make decisions about appropriate alternatives and services for individual offenders. Second, assessment of risk and needs is essential to make agency or jurisdictional plans for probation services.<sup>102</sup>

Assessment and classification systems are necessary to properly supervise offenders along the continuum of services and sanctions. Although commonly associated with high-risk offenders, these systems work equally well with low-risk offenders. Supervision and treatment efforts are needed to deal with those at the highest risk of reoffending, and to accomplish that, appropriate assessment and classification strategies are needed. Identifying and working with high-risk offenders creates an opportunity to prevent future offenses, leading to decreased criminal behavior and enhanced public safety.

Use of a formal assessment and classification system brings greater validity, structure, and consistency to the assessment and decision-making process. This formal assessment also allows a more precise allocation of limited system resources, permitting probation departments to target the most intensive/intrusive interventions on the most serious, violent, and chronic offenders.

Meaningful program evaluation is also connected to assessment and classification.<sup>103</sup> Once offenders are directed to the appropriate programs and subgroups within programs, it is expected that the offenders' goals will be achieved successfully. Program outcomes can be measured for program evaluation, and, if necessary, program components can be adapted to more fully accomplish goals.

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<sup>102</sup> Adult Probation White Paper, p. 32.

<sup>103</sup> Adult Probation White Paper, p. 33.

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An up-front technological investment in the area of risk and resiliency assessment may save time and resources later. As more probation departments focus on high-risk offenders, development and improvement of diagnostic tools that enable rapid and accurate identification of high-risk individuals so they can be supervised and managed effectively becomes crucial. These tools are being used effectively to address underlying issues such as substance abuse and mental health issues.

In the long run, making multiple input and storage of the same information in separate locations unnecessary will conserve resources. Some counties are already entering the kind of information necessary to make decisions about offenders, but the information is not being used effectively because there is no efficient way for the data to be shared. Many counties that do not have automated systems will require assistance to catch up with existing technology.<sup>104</sup>

RECOMMENDATION 9: Probation departments should establish a graduated continuum of services and sanctions to respond to the needs of each offender.

A continuum of graduated services tailored to the needs of offenders is also necessary. Once an offender's risk, resiliency, and needs have been assessed, it is imperative that probation departments provide the appropriate response and services. Probation departments need the flexibility to offer offenders services tailored to particular needs. Every effort must be made to implement or expand services on the continuum to ensure public safety and encourage rehabilitation. The services available cannot be of a one-size-fits-all variety. A range of services and programs that can be tailored to fit individual clients is needed. The sanctions within a continuum do not necessarily correspond to a level of supervision. Other dimensions must include severity of punishment, degree of accountability, treatment intensity, and cost.

Sanctions refer to a range of graduated, credible restrictions targeted at specific offender profiles and used as monitoring controls.<sup>105</sup> The theory behind sanctions is that offender populations present a broad range of risks that must be accompanied by an appropriate range of sanctioning options to match those risks. The sanctions range from less to more severe and can move up or down the continuum depending on the performance of the offender. The primary advantage of sanctions is that they give probation departments the tools and ability to respond appropriately to a diversity of offenses and offenders.

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<sup>104</sup> Six County Executive Summary, pp. 6–7.

<sup>105</sup> Adult Probation White Paper, p. 48.

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A continuum of services and sanctions also must be sufficiently nuanced and flexible to appropriately address the needs of the offender. There is a particularly strong need for services targeted at girls. In some counties, 25 percent of detained juveniles are female,<sup>106</sup> and often there are no gender-specific services in place.

Services are also needed for adults. The Welfare and Institutions Code is specific and focuses on probation services for juvenile offenders. The Penal Code does not contain the same level of specificity as to services. Because probation departments are not mandated to provide as detailed a continuum of services to adult offenders, and because probation departments must make difficult decisions as to how best to spend limited resources, juvenile offenders are provided, relative to adult offenders, a broad continuum of services.

When possible, intervention should be based on strength building rather than flaw fixing.<sup>107</sup> Approaching a probationer with a perspective that focuses on strengths and competencies allows the probation officer and the probationer to mutually discover how these personal resources can be applied to the situation.<sup>108</sup> In the past, these types of efforts have failed because there was no effective extension from philosophy to practice. The philosophical first step is to believe that an adolescent can build upon strengths and past successes in a way that can help keep troublesome behavior in check. Just as important is the second step of having practice methods to identify and marshal these strengths for the necessary behavior changes.

RECOMMENDATION 10: Prevention and early intervention efforts in appropriate cases should be an essential component of effective and meaningful probation services.

Much of the work being done in the area of prevention and early intervention focuses on the application of programs to juvenile services.<sup>109</sup> Prevention and early intervention programs are premised on the theory that early identification of at-risk youth and targeted programming is an effective means of rehabilitation. Prevention and early intervention can be prearrest, informal probation or age-related intervention. Similar prevention and intervention efforts targeted at the adult system warrant further study. Adult drug court

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<sup>106</sup> California Board of Corrections, *Juvenile Detention Profile Survey Report, 3<sup>d</sup> Quarter Report 2002*.

<[http://www.bdcrr.ca.gov/fsod/juvenile%20detention%20survey/2002/quarter\\_3/survey\\_results.pdf](http://www.bdcrr.ca.gov/fsod/juvenile%20detention%20survey/2002/quarter_3/survey_results.pdf)> (as of December 30, 2002).

<sup>107</sup> Adult Probation White Paper, p. 21.

<sup>108</sup> M. D. Clark, *Strength-Based Practice: The ABC's of Working with Adolescents Who Don't Want to Work with You* (1999) Institute for Strengths in Juvenile Justice <<http://www.drugs.indiana.edu/prevention/assets/asset2.html>> (as of Nov. 28, 2001).

<sup>109</sup> For example the Orange County Probation Department's 8% Solution program has successfully targeted high-risk juvenile offenders ages 15 and under at the time of their first or second contact with probation (<<http://www.oc.ca.gov/Probation/e8%25Solution/c8%ProblemProgramOverview.asp>> [as of Nov. 28, 2001]).

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and domestic violence efforts have proven effective in addressing the needs of adult offenders; these efforts should be examined and expanded as appropriate. Adult and juvenile services must target the appropriate population—what works for one offender may not work for another offender who committed the same offense.

### Strategies for Planning Effective Services

*This strategy for planning effective services can be applied to programming in the juvenile or adult venue. This strategy encourages a disciplined approach to all prevention efforts and early-intervention services.*

- Strengthen families in their role of guiding, disciplining, and instilling sound values;
- Support core social institutions and their role in supporting families and helping them develop their maximum potential;
- Promote prevention strategies and activities that reduce the impact of negative risk factors and enhance the influence of positive protective factors in the lives of those at greatest risk to offend;
- Provide immediate, effective, and appropriate interventions at the first sign of trouble in an offender's life;
- Establish a meaningful system of graduated sanctions and a logical continuum of services to respond effectively and appropriately to the needs of each offender; and
- Use the least restrictive alternative to placement in an effort to keep families intact whenever possible and appropriate.<sup>110</sup>

Efforts must be made to intervene at an early stage with those at greatest risk of violating the law. A clearly defined plan, measurable process and outcome thresholds, and broad-based collaboration are needed.

RECOMMENDATION 11: Courts and counties should develop and implement partnerships and work collaboratively to ensure appropriate levels of services for adult and juvenile offenders.

The decade of the 1990s saw the advent and growth of collaborative treatment-based programs in courts and probation departments.<sup>111</sup> These programs are grounded in probation interaction with other community resources to provide court-monitored comprehensive treatment programs for adult offenders. The goal of these programs is to reduce recidivism and restore the offender to useful status in society. Examples of such programs are drug courts, domestic violence courts, and mental health treatment courts.

<sup>110</sup> Office of Juvenile Justice and Delinquency Prevention, *Comprehensive Responses to Youth at Risk: Interim Findings from the SafeFutures Initiative* (Nov. 2000) p. 4.

<sup>111</sup> Juvenile Probation White Paper, p. 87.



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Early data on these programs has demonstrated that they are effective in reducing crime and enhancing public safety.<sup>112</sup> The task force had neither the time nor the resources to fully explore the extent and efficacy of adult collaborative treatment programs in probation services. Further study should be given to collaborative adult prevention and treatment programs that exist in California or in other jurisdictions to help determine effective program options that would positively affect the adult offender population.

RECOMMENDATION 12: Probation departments should adopt workload standards rather than caseload ratios.

The term *caseload* is used to indicate the number of cases assigned at any one time to a probation officer. Of the many mechanisms that have been used to assess and study the issue of probation resources, a strict caseload measure that quantifies the number of cases assigned per officer has remained the most prevalent. The question “What is the ideal caseload size?” is difficult to answer because of the extreme diversity of probation departments.

Workload measure rather than caseload size is the most accurate and effective gauge for equalizing work distribution among probation officers.<sup>113</sup> Workload measure realistically considers the number of cases, contacts, and other responsibilities for each case, as well as job responsibilities not specifically related to case management. Probationers should be treated differently depending on the amount and type of supervision required. Each case should be given a weighted value depending on the risks and needs associated with the probationer; this will help the department more rationally and equitably distribute workload.

Caseload per officer is neither a fair nor accurate assessment of the amount of work being performed. Probation must move away from focusing on the number of cases per probation officer and instead focus on the actual amount of work assigned. The task force recognizes that this philosophical shift alone will not resolve the problem of heavy workload, because a root cause of the problem is the high ratio of probationers to probation officers. In addition to equalizing work distribution, a workload approach will also position probation departments to more accurately describe and quantify their workload challenges so they can make more solid policy and operational decisions and more persuasively make a case for additional resources.

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<sup>112</sup> Six County Executive Summary, p. 13.

<sup>113</sup> Stakeholder Survey Results, p. 19.

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Moving to a workload mentality helps achieve the goal of ensuring that each probationer is treated appropriately in terms of the amount and type of supervision received. This system recognizes that a probation officer may be expected to give different amounts of time and different types of attention to each case. In practice, this will translate into different frequencies of personal contacts per case by the assigned officer.<sup>114</sup> If a probation department is adopting a management strategy that is based on differentiation of case supervision, then the method of assigning and accounting for those cases must accommodate that approach.

The following factors support the development of probation department workload measures:

- No national standards exist that define workload measures;
- Management and line staff are concerned about disparity in workload size;
- Standards ensure that probation employees are not asked to work beyond the appropriate work hours;
- As part of overall sound management standards, workload measures guarantee that each employee has nonclient activities built into his or her work schedule;
- Workload measures ensure that probation employees receive credit for all job-related functions in which they participate;
- Workload measures provide budget justification for needed resources;
- Workload standards allow more control over a department's direction; and
- Workload standards allow development of planned contingency options.<sup>115</sup>

Workload standards will not produce accurate time allotment unless the preceding factors are included in their development. During the outreach process, probation employees continually stressed the importance of workload equalization.<sup>116</sup> Translating assessed risk/needs into accurate time allotment is the key to equalizing workload for probation officers.

The task force's information-gathering process determined that the necessary tools for implementing a risk/needs assessment that is connected to a workload approach are already available.<sup>117</sup> These assessment tools are probation-officer friendly. They can be self-administered on personal computers and then scored and their results printed within 20 to 30 minutes. Advanced instruments have validation components that determine the truthfulness of each test taker. The best instruments have validation components and allow the test to be normalized to the probation population in each local jurisdiction. With

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<sup>114</sup> *Ibid.*

<sup>115</sup> *APPA Position Paper on Caseload Standards* <[www.appa-net.org](http://www.appa-net.org)> (as of Nov. 28, 2001).

<sup>116</sup> See Stakeholder Survey Results, pp. 19–22.

<sup>117</sup> Stakeholder Survey Results, p. 19.

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the proper equipment, a single trained person can administer the assessment instrument to as many as 15 people at the same time.<sup>118</sup> With good assessments, staff can focus on identified needs. Assessment of adult and juvenile probationer's risk/needs is essential to maximize the limited resources available for supervising this population.<sup>119</sup>

A formalized assessment of each probationer must occur both before and after delivery of services by probation employees. A comparison of evaluations will allow progress to be measured and will also assist in the study of the value of services that the department provides. These assessments will also gather the information necessary to ensure that proper time units are allotted for different supervision and administrative tasks. The task force recognizes that there must be a clear connection between the use of validated risk/needs assessment (the time and resources each individual case requires) and workload standards (how work can be equitably distributed).

The traditional view of process and measurable outcomes is that process measures serve as aids in determining whether a program is implemented as designed. Measurable outcomes are used to determine whether the program or practice achieved the desired results. By collecting data that measures both the process and the outcome of services provided to each probationer, probation management will have the raw data necessary to make informed adjustments to service delivery.

### Advantages of Workload Assignment Standards

*Workload assignment standards, using process and measurable outcomes, would provide the following probation management advantages:*

- Equal workload distribution for all probation employees;
- Elimination of the mystique of what a full workload looks like;
- Accountability and measurability of probation services;
- Hard data for equalization of workloads among probation services;
- A management tool for making objective case-assignment decisions;
- Hard data for funding authorities for budget justification;
- Community credibility and legitimacy of probation's function and activities; and
- A reward system for probation employee efficiency.

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<sup>118</sup> *Ibid.*

<sup>119</sup> *Ibid.*

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Implementation of a workload standard will benefit the public by maximizing the use of available probation resources. Probation employees and probation management will benefit from the equalization of workload throughout departments and from the collection and aggregation of data necessary to justify increased funding for departments. This approach will also reduce the likelihood of and need for making uninformed policy decisions by providing objective, quantifiable process and outcome data.

### *EDUCATIONAL ISSUES*

While the task force recognizes that inadequate education factors existed before the juvenile entered the delinquency system, the task force examined the role of education as a preventative tool, the delivery of probation services that meet the educational needs of offenders, the provision of education in custody facilities, and the education and vocational training needs of adult offenders. Probation does not have the training and skills to address the educational needs of children in the delinquency system or those of adult offenders; however, probation plays a key role in identifying children with educational needs and connecting those children with proper services.

RECOMMENDATION 13: Probation departments should work with courts, schools, parents, and education agencies to ensure that adult and juvenile probationers are provided with appropriate general, special, and vocational educational services.

Education and special education training for probation officers must be expanded if awareness of this issue is to be raised. Probation officers should be trained to ensure that children's educational rights are investigated, reported, and monitored. Probation officers need to be trained to recognize whether a juvenile has a disability and to actively pursue necessary educational services. Probation officers must also be connected with local education representatives so that they work together to address the educational needs of children.

Training for appropriate staff needs to include such topics as identification of behavioral and learning disabilities, the causal relationship between certain disabilities and the juvenile justice system, the special education process, school discipline (e.g., expulsions and suspensions), and the legal framework regarding education. Probation officers should be apprised of federal and state special education law, as well as of the many types of disabilities that a juvenile may have.<sup>120</sup>

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<sup>120</sup> L. Warboys et al., *California Juvenile Court Special Education Manual*, Youth Law Center (1994) pp. 74, 75.

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Communities also should consider school-based probation officers. School-based probation officers could more readily deliver the following services:

- Notify the school of a juvenile's probation conditions and any special educational or therapeutic needs;
- Monitor a juvenile's attendance, school performance, and behavior;
- Conduct home visits and coordinate intervention services from sources outside the school system;
- Coordinate reentry conferences for students returning to school following placement in a juvenile facility; and
- Provide services to children who are not necessarily wards, but rather were referred to the probation department because of school behavior and discipline problems, minor offenses, or family difficulties.<sup>121</sup>

Education is one of the most effective forms of crime prevention.<sup>122</sup> Probation departments should, whenever appropriate, support the efforts of parents and schools to identify children with exceptional needs or other educational disabilities to provide proper educational services. Advancing a child's educational proficiency and skills can be a deterrent for a child who may be in danger of violating criminal laws. Illiteracy and poor academic performance may not be direct causes of criminal behavior, but juveniles who have received inadequate education are found within the juvenile justice system in disproportionate numbers.<sup>123</sup>

Because so many juvenile offenders are eligible for special education services, juvenile justice professionals, and especially probation services staff, should be apprised of the narrow, yet comprehensive, special education field of law. Both federal and state laws articulate special education services and legal entitlements for students.<sup>124</sup> Section 24 of the Standards of Judicial Administration, relating to juvenile court matters, was amended in January 2001 to address the educational needs of children before the court. Section 24 provides guidance to the juvenile court regarding the educational rights of children. Also, a special education training component for judicial officers, court personnel, attorneys, volunteers, law enforcement personnel, and child advocates was included.<sup>125</sup> Section 24(g) and (h) provide principles concerning special education to guide the juvenile court and clarify the court's role in taking responsibility for the education of children under the jurisdiction of the juvenile court.

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<sup>121</sup> *Ibid.*

<sup>122</sup> Center on Crime, *Communities and Culture, Research Brief*, Occasional Paper Series (Sept. 1997) p. 1 <[http://www.soros.org/crime/research\\_brief\\_\\_2.html](http://www.soros.org/crime/research_brief__2.html)> (as of Dec. 20, 2001).

<sup>123</sup> *Id.* at p. 2.

<sup>124</sup> Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et seq.), and Educ. Code, §§ 56300, 56301, requiring each school district, special education local plan area, or county office of education to actively and systematically seek out all individuals with exceptional needs, including children not enrolled in public schools.

<sup>125</sup> Cal. Standards Jud. Admin., § 24(d)(2).

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Probation officers can actively participate in the child's educational process in many ways. Many probation departments already work to address children's educational needs. School Attendance Review Boards, system of care, and Juvenile Assessment Centers are in place in many jurisdictions. They must work with other court and education system participants to ensure that the child's educational needs are identified and met. Probation officers should consider the following responsibilities regarding the child's educational concerns. Probation officers should (1) ensure that cases stemming from school behavior that may be disability related are reviewed for appropriate special education procedures; (2) request special education records, evaluations, and assessments; (3) ensure that the child's educational records are transferred to the subsequent placement and that the child's placement or service provider can appropriately meet the child's educational needs; (4) work with the child's family members, attorney, Individualized Education Program (IEP) team, and other interested parties to coordinate the child's assessment; (5) participate in IEP meetings to effect changes in the child's education; (6) provide truancy services or make appropriate community referrals regarding truancy; (7) obtain all relevant education records and ensure that they are accurate and current; and (8) ensure that the child is not conveyed to the physical custody of the California Youth Authority until the child's IEP, for the individual with exceptional needs, has been furnished to the CYA.

There is an established link indicating that truant behavior is a precursor to delinquent behavior.<sup>126</sup> Probation departments should work with local education agencies to establish truancy prevention programs as a delinquency prevention measure. If a child is not regularly attending school, there is a greater chance of the child's engaging in misconduct with no adult supervision. Recognizing the link between truant behavior and delinquency, probation departments and other agencies can collaborate to establish truancy–juvenile delinquency prevention programs.

Education is critical to a child's success and can be used as a preventative measure against delinquency. Probation departments should work with schools and education agencies to ensure that juveniles in custody and on probation receive the educational services and appropriate curriculum required by law. To prevent recidivism and assist juveniles in getting back on track educationally, juveniles must receive the services to which they are legally entitled and must be provided with a challenging educational curriculum.

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<sup>126</sup> California Task Force to Review Juvenile Crime and the Juvenile Justice Response, Final Report (Sept. 1996) p. 62.

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Juveniles in correctional facilities may require remedial education for a number of reasons: either they have missed large amounts of schooling and have fallen behind, or they have not received the educational services to which they are entitled. Remedial education is intended to improve a person's deficient skills; however, this does not mean that the curriculum or assignments need to be easy to complete. Juveniles may require intensive assistance and varying levels of educational attention or oversight. Each juvenile has different educational strengths and weaknesses and, depending on the disability, may require various approaches to learning.

Understandably, juvenile facilities face numerous barriers to providing adequate and appropriate educational services. Facility overcrowding and understaffing are major concerns. These pressures may restrict education and treatment services. The differences among juveniles (e.g., age, gender, ethnicity, academic performance, and offense history) make clear the necessity of differential and individualized educational programming.<sup>127</sup>

Whether a juvenile receives GED preparation, prevocational and vocational education, literacy and functional skills education, or academic courses, juveniles in juvenile facilities are entitled to receive an appropriate education. Juvenile facilities must collaborate with educational and other community agencies to ensure that this population is obtaining an appropriate education.

Probation departments should work with education agencies to ensure that adult probationers have access to educational and/or vocational services. Research has shown that education is one of the most effective forms of crime prevention for adults as well as for juveniles.<sup>128</sup> Many adult probationers never completed high school or received an equivalency degree or GED. Probation departments must work with the education agencies to ensure that adult probationers have access to education services and must also encourage probationers to complete their education.

Research has shown that education is one of the most effective forms of crime prevention for adults as well as for juveniles.

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<sup>127</sup> S. Meisel et al., *Collaborate to Educate: Special Education in Juvenile Correctional Facilities* <[http://www.edjj.org/Publications/pub01\\_17\\_00.html](http://www.edjj.org/Publications/pub01_17_00.html)> (as of Nov. 28, 2001).

<sup>128</sup> Open Society Institute, *Education as Crime Prevention: Providing Education to Prisoners*, Criminal Justice Initiative, Research Brief Occasional Paper Series No. 2 (Sept. 1997).

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Adult education serves three important goals. First, it assists the probationer in improving his or her educational level. For most probationers, learning to read, earning a GED, or gaining acceptance into a higher-education program marks the first time in their lives that they have actually attained a worthwhile milestone. Second, it deters future criminal behavior by advancing a probationer's educational level and thus providing him or her more opportunities for lawful, gainful employment. Many probationers are unemployed because they do not meet minimum educational requirements. Additionally, completion of the Education Services Program can persuade employers that the person can finish what he or she starts and that the person is functioning at a higher level of maturity and responsibility. Finally, adult education increases the number of productive, contributing members of society. Helping offenders earn a minimum education, and thereby helping them become employable, makes offenders more likely to steer clear of the criminal justice system and become responsible, tax-paying citizens who no longer depend upon public assistance/welfare.<sup>129</sup>

### *JUVENILE DETENTION*

According to Board of Correction data, as well as stakeholder input and testimony during outreach efforts, juvenile custody facilities are often filled beyond intended and rated capacities.<sup>130</sup> There are many reasons for this overcrowding, but in part it is caused by the need for probation officers and judges to take the appropriate amount of time to consider a juvenile's case and apply the relevant legal standards to determine whether a juvenile should be released or detained. While many jurisdictions are engaged in detention reform efforts, further efforts need to be undertaken to improve custody conditions. The task force applauds jurisdictions adequately addressing appropriate detention and disproportionate minority confinement.

RECOMMENDATION 14: Juvenile detention reforms should be developed and implemented to ensure that juveniles are appropriately detained and to reduce overcrowding in detention facilities.

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<sup>129</sup> Marion County Indiana Superior Court Probation Department, Adult Division  
<<http://www.indygov.org/probation/report/1998/4ab.htm#1a>> (as of Oct. 22, 2001).

<sup>130</sup> California Board of Corrections, see historic reporting of capacity and population in *Juvenile Detention Profile Survey Results* dating back to 1999 at <http://www.bdcorr.ca.gov/fsod/juvenile%20detention%20survey/juvenile%20detention%20survey.htm> (as of Feb. 13, 2003).



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One possible answer to overcrowding is to reform detention practices. Considerable work has been done on this issue. The Annie E. Casey Foundation's Juvenile Detention Alternative Initiative<sup>131</sup> is one of several approaches to detention reform that could be considered.

Alternatives to out-of-home-placement can help keep juveniles with their families and receiving services within their communities. Detention reform and disproportionate minority confinement must be considered together to address problems of overcrowding. Overrepresentation of minority juveniles in juvenile custody facilities is caused by many factors: the juvenile justice system, socioeconomic factors, the educational system, and the family.

The Annie E. Casey Foundation lays out a proven, successful program for reducing disproportionate minority confinement.<sup>132</sup> The first strategy is collaboration: the coming together of juvenile justice system stakeholders and other potential partners to confer, share information, develop systemwide policies, and promote accountability.<sup>133</sup> One goal of this collaboration is to build a consensus regarding the purpose of detention. It is suggested that secure detention be used to ensure that alleged delinquents appear in court at the proper times and to protect the community by minimizing serious delinquent acts while cases are being processed.<sup>134</sup> The strategy used to implement this purpose is the development of an objective risk-based detention system that quantifies risk by measuring the issues defining it. The present offense, the past criminal record, and whether the offender has a history of failures to appear are all important factors in considering risk for detention.<sup>135</sup>

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<sup>131</sup> R. Stanfield, *Overview: Pathways to Juvenile Detention Reform: The JDAI Story—Building a Better Juvenile Detention System, A Project of the Annie E. Casey Foundation* (Baltimore, Md: The Annie E. Casey Foundation, 1999).

<sup>132</sup> *Id.* at p. 32.

<sup>133</sup> K. Feely, No. 2, *Pathways to Juvenile Detention Reform: Collaboration and Leadership in Juvenile Detention Reform* (1999) p. 12.

<sup>134</sup> F. Orlando, No. 3, *Pathways to Juvenile Detention Reform: Controlling the Front Gates—Effective Admissions Policies and Practices* (1999) p. 10.

<sup>135</sup> *Id.* at p. 24.

## Evaluating Risk: Its Role in Detention Reform

*Research tells us that a good risk-based system can determine which cases are high, medium, or low risk.<sup>136</sup> This information is crucial in making a determination regarding appropriate placement and whether detention is the best alternative.*

- **Low-risk cases** can be released without additional services because they have little propensity to commit another crime in the time period from release until their next appearance, and, further, they will not miss their next court appearance.
- **Medium-risk cases** can be released with a detention alternative, such as home supervision/electronic monitoring.<sup>137</sup>
- **High-risk cases** are best kept in secure detention.

Under **home supervision**, a juvenile is detained but released home under very close supervision, with daily visits by probation staff.

**Electronic monitoring**, when combined with home supervision, gives the court another option for the possible release of cases of a little higher risk where the court is willing to take a chance.<sup>138</sup> It also provides a step up for those who are on home supervision and have a technical violation of their home supervision contract. Compared to the cost of incarceration, the home supervision and electronic monitoring alternatives are relatively inexpensive. Further, they are very successful in achieving the goal of not having youth miss court appearances or reoffend during case processing.

The next strategy recommended is to provide dispositional alternatives that are varied, graduated, strength based, and located as much as possible within the local community.<sup>139</sup> The alternatives should be provided in the least restrictive setting. Counties should attempt to provide strength-based family preservation services wherever possible as an alternative to out-of-home placement. In California, all counties can participate in a system of care, and these alternatives should as much as possible follow that model.<sup>140</sup>

Using a system-of-care model, with partnerships with the community, some counties have proven that alternatives to residential placement can work and be very successful. It has been demonstrated that providing these kinds of services reduces lengths of stay in detention, keeps youths in their local schools, maintains family ties, and does not entail any additional criminal risk to society. Although there will always be cases in which residential placement is the most appropriate approach, research and practice have demonstrated that alternatives can work.

<sup>136</sup> *Id.* at p. 25.

<sup>137</sup> P. DeMuro, *No. 4, Pathways to Juvenile Detention Reform: Consider the Alternatives, Planning and Implementing Detention Alternatives* (1999) p. 32.

<sup>138</sup> *Id.* at p. 18.

<sup>139</sup> *Id.* at p. 11.

<sup>140</sup> California System of Care Web site <<http://www.dmh.cahwnet.gov/SpecialPrograms/child.htm#1>> (as of Dec. 20, 2001).

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Probation departments should examine closely the reasons for facility overcrowding and identify any barriers to release, specifically from the perspectives of race and gender, that exacerbate the problem. Barriers may include communication, language, and transportation issues and the need for extra support services for parents who are unwilling at first to take back their children.

The final strategy necessary to alleviate unnecessary overcrowding is to look at the efficiency of the system in moving cases.<sup>141</sup> Close examination of the timeline from initial arrest to final disposition may reveal decision points or procedures that introduce inefficiencies and unnecessary delays. In a collaborative system, processes can be sped up by making the system sensitive to delay and anticipating possible outcomes. Some counties have developed the position of expeditor, where the job of the expeditor is to make sure that as few delays as possible occur. The cost savings frees resources that can be reallocated to underfunded areas and maximizes efficient delivery of probation services.

Custody facility overcrowding produces unsafe, unhealthy conditions for both detainees and staff. Overcrowding negatively affects all aspects of detention. When staffing ratios fail to keep pace with population, the incidence of violence and suicidal behavior increases. Staff in overcrowded facilities are invariably required to resort to increased control measures such as lock-downs and mechanical restraints.

The type of detention reform strategy described here, coupled with the development of accurate assessment tools, has proven successful in diminishing overcrowding. High-risk cases are still detained in the interest of public safety, but low-risk cases can be released at intake, as incarceration is not necessary. Medium-risk cases that might have previously been detained can be provided with alternative supervision, allowing them to be maintained successfully in their homes and their communities.

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<sup>141</sup> D. A. Henry, *No. 5, Pathways to Juvenile Detention Reform: Reducing Unnecessary Delay, Innovations in Case Processing* (1999) p. 10.

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### *CHANGING ROLE, CHANGING NAME*

Probation plays a dual role in the community, with a strong service component and an equally important enforcement component. Probation's essential task is to ensure public safety both by supervising probationers and enforcing court orders and by providing rehabilitation services. With this unique balance in mind, the task force has taken a long-range view in developing recommendations that clarify the balance between enforcement and services and take into account the diverse needs of the 58 counties and the state as a whole.

RECOMMENDATION 15: Probation departments should consider an approach to probation that balances offender accountability, victim restoration, competency development, and community collaboration.

The task force examined philosophies that serve as a basis for the development of modern probation practices. In studying probation in the state and nation, the task force recognized that an approach to probation that emphasizes offender accountability, victim restoration, competency development, and community collaboration is in place in many jurisdictions and should be considered in other California counties.

The task force recommends that probation in California be delivered within a balanced justice framework. Public safety can be achieved by using community-based rehabilitation programs that are accountable to probation departments and to the courts. To facilitate this vision of community participation, deputy probation officers throughout the state must become proactive participants in the ongoing development of a balanced justice system.

First articulated as a mission for juvenile probation agencies, the balanced justice approach is increasingly part of the fundamental ideology guiding the development and delivery of both adult and juvenile justice services.<sup>142</sup> This approach includes victims, communities, victims, and offenders. In a balanced justice approach, the focus is on the victim, and victims are given the option of playing an active role in the justice process from the beginning to its conclusion. But crime is looked upon as more than a specific offense committed against a particular victim. It is not just the victim's problem; crime is a problem that belongs to the entire community.

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<sup>142</sup> Juvenile Probation White Paper, p. 19.

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The balanced justice approach posits three primary goals of justice: community protection, accountability, and competency development.<sup>143</sup> These three goals are equally important in determining appropriate responses to offenses and in allocating resources. However, this approach allows individual assessment of offenders and differing emphases on various goals depending on the particular situation.

The goal of community protection bolsters the public's expectation of safety and security. Offenders should be maintained in the least restrictive environment (and at the most reasonable cost) in which public safety can be reasonably ensured. A tenet of a balanced justice framework is that offenders who are connected to their communities and who care about people in their neighborhoods are less likely to reoffend. It is important that offenders remain in their communities whenever possible, and that justice practices foster positive relationships among offenders, their families, and community members.<sup>144</sup> Removing offenders from their communities for punitive purposes severs bonds with families and others and places offenders with other offenders who may reinforce antisocial values.<sup>145</sup> Research has shown that high levels of surveillance alone, without effective treatment, are not useful in reducing recidivism or in increasing public safety.<sup>146</sup>

Activities engaged in by probation agencies and the other constituents of the justice system (victims, offenders, and community members) may serve a variety of purposes. However, it is unlikely that specific activities will always be equally useful in accomplishing each of the goals discussed. Therefore, when selecting sanctions for offenders and tasks for other members of the justice system, care must be taken to balance them so that all goals are addressed. For example, research on offender rehabilitation suggests that victim restitution is not especially useful as a means of reducing offender recidivism.<sup>147</sup> However, it is a vital component of a restorative justice approach that helps victims recoup the losses they have suffered. Similarly, increased surveillance methods, including home confinement and electronic monitoring, are not particularly effective in reducing recidivism,<sup>148</sup> but these strategies may be important for public protection as offenders are receiving treatment services to increase behavioral controls. These issues will be more fully examined in the task force's subsequent deliberations.

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<sup>143</sup> Juvenile Probation White Paper, p. 24.

<sup>144</sup> Adult Probation White Paper, p. 21.

<sup>145</sup> *Ibid.*

<sup>146</sup> J. Petersilia and S. Turner, "Evaluating Intensive Supervision Probation/Parole: Results of a Nationwide Experiment" (May 1993) *National Institute of Justice Research in Brief*, pp. 1–11.

<sup>147</sup> P. Gendreau, "The Principles of Effective Intervention with Offenders," in A. T. Harland (ed.), *Choosing Correctional Options That Work: Defining the Demand and Evaluating the Supply* (Thousand Oaks, Calif.: Sage Publications, 1996).

<sup>148</sup> *Ibid.*

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RECOMMENDATION 16: In conjunction with any change to the probation model in California, a change in name for probation could be considered to better reflect probation's function and status.

The task force clearly acknowledges the significance of probation's dual enforcement and services roles. However, many stakeholders perceive that the services component is diminishing in favor of a greater focus on enforcement. Probation departments now tend to hire deputy probation officers with criminal justice backgrounds rather than individuals with liberal arts degrees.

The task force recommends that if, ultimately, probation moves toward a community-centered focus, a name change should be considered to more accurately describe probation's role in the community. Some jurisdictions, including Texas and Oregon, have already implemented a name change. Examples of descriptive names in other jurisdictions that reflect the community focus include Department of Community Justice and Department of Community Corrections.

### *ONGOING EFFORTS*

Over the last three years, the task force made great strides toward an enhanced probation system by examining the history of probation, its current operation throughout the state, and the significance of its work within the context of the justice system. This represents perhaps the most comprehensive examination of California's probation system; however, a great deal of work in implementing the vision of the task force remains.

RECOMMENDATION 17: Counties and branches of state government should establish a body tasked with developing a specific long-term reform model and an implementation plan.

The task force expects that through further study and continued commitment of interested stakeholders, improved probation services and governance for the benefit of all Californians will be achieved. The task force encourages counties, courts, and probation to maintain the level of commitment and collaboration demonstrated these last three years in order to achieve the significant reforms envisioned by the task force that promise to enhance probation.

## SECTION VI

### Conclusion and Future Steps

This report details the processes undertaken by the Probation Services Task Force that set out to investigate where probation has been, where it is now, and where it should be. It sets out key findings about the prominent role probation plays in the criminal and juvenile justice system and highlights the ways in which the system itself does not adequately support probation departments in carrying out their critical role.

The task force was charged with assessing the programs, services, organizational structures, and funding related to probation services provided by counties to the courts, probationers, and the public and with formulating findings and making policy recommendations to the Judicial Council, CSAC, the Legislature, and the Governor following this assessment, specifically:

- Identifying and evaluating practices and options for funding probation services;
- Identifying the nature and scope of probation services provided by counties to the courts, probationers, and the general public;
- Identifying and evaluating practices and options for the appointment and accountability of the CPO;
- Identifying and evaluating various organizational structures for adult and juvenile probation services;
- Identifying and evaluating practices of other jurisdictions with regard to the range and level of probation services, organizational structure, and funding; and
- Identifying the appropriate relationship between probation and the courts as it relates to court services and alternatives for achieving the preferred outcome.

The task force has made great strides toward addressing this broad charge. It has conducted extensive outreach efforts, including a detailed survey and stakeholder roundtable discussions; identified core areas of concern; advanced key findings; and developed recommendations that are proposed for implementation now and in the future. Central findings and recommendations of the task force are based on its view that collaboration, cooperation, and education are key to the provision of quality services.

One of the most enriching and educational aspects of the task force's effort was in the outreach sessions conducted primarily in 2000 and 2001, during the first 12 months of the task force examination. As noted in section I, the task force conducted numerous information gathering efforts ranging from discussion sessions with stakeholders to probation surveys and site visits. While the task force's three-year study represents

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perhaps the most comprehensive examination of California's probation system in recent memory, it was limited—given fiscal constraints and the sheer time necessary to examine the many complex issues connected to this effort—in its ability to fully develop a comprehensive picture of probation in California. As the task force struggled to develop a new model for probation in California, it became clear that further information beyond the scope and capacity of the task force was needed. Continued collaborative and individual efforts on the part of counties, courts, and probation are necessary to examine, craft and implement an enhanced viable model for probation.

### *PROPOSED RESEARCH PROJECTS*

To assist future efforts and build on the extensive knowledge and information compiled these past three years, the task force has developed the following four phased research agenda to more fully answer the question, "What is probation?"<sup>149</sup>

#### *Baseline Information on the Roles of Probation Officers and the Services Provided by Probation Departments*

No consistent, statewide information base exists that details the role of probation officers or the range of services provided by probation departments, including services provided in correctional facilities. More complete information needs to be gathered and analyzed to assess the following:

- How resources are being used;
- Whether mandates are being met;
- Which services constitute core probation services; and
- The impact, on finances, staff, and programs, of any changes to the structure of probation services in California.

#### PHASE 1. Statewide Study: Function, Services, Mandates, and Funding

Phase 1 of the research project contemplates a statewide study of probation departments, including surveys, to quantify all of the following:

- The roles and functions provided by probation officers and other service providers;
- The number and proportion of probation officers in each functional category at the local level and statewide;
- The range of youth and adult services provided by probation departments;
- The population served in each category;
- The mandates met by programs and services;

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<sup>149</sup> Appendix H contains a document describing the various research functions and resources referenced below.



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- The resources, including staff, project costs, and facilities required to operate programs and services; and
- The level and source of funding for programs and services.

This project would survey the CPO in each county. The survey instrument would be developed through working groups that would include the participation of probation officers, judicial officers, and other stakeholders. The results would be used to quantify the range of service models in the state; assess the administrative and fiscal impact of changes in probation services; and provide a research baseline for future studies of probation officer workload, probation service models, and caseflow.

In addition to the survey of CPOs, each probation department will be asked to provide financial information, including departmental budgets, expenditures from the prior fiscal year, and revenue information that would account for indirect or other costs not readily identifiable in the department's budget.

### *Practices in Assessment and Classification*

Assessment and classification of offenders should be consistent and in accordance with current research and best practices. Probation service providers need access to current research in assessment. They should also receive technical assistance in the development of assessment and classification tools and in validation of these tools to the target population.

#### PHASE 2. Examination of Research and Practice: Assessment and Classification of Offenders

The phase 2 research project would seek to synthesize current research and practice in the assessment and classification of offenders. The inventory of probation services described in the phase 1 project would help identify services or populations where assessment and classification tools are most needed. This project would entail the following:

- Literature review;
- Nationwide appraisal and collection of assessment and classification practices and instruments;
- Release of findings through research reports, conferences, and training; and
- A long-range effort to develop statewide standards in assessment and classification.

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### *Practices in Evaluation*

A range of evaluation practices exists in probation services. Grant-funded programs are often evaluated, some with a high level of consistency in methodology and dissemination of results. Programs not funded by grants are often not evaluated. When rigorous evaluations have been performed, the results are often not accessible to practitioners. Decisions to implement programs are often made without use of relevant information on the effectiveness of the program model.

#### PHASE 3A. Analysis and Classification of Program Evaluations

Phase 3A of the research project would synthesize existing evaluations of programs for use by CPOs, judicial officers, and policy makers and would include summaries of literature and assessment of the relevance of programs to California populations and conditions. The results of this process would be categorized by major service area and made available to probation departments.

#### PHASE 3B. Technical Assistance in Evaluation Design and Implementation

In phase 3B, probation departments would receive technical assistance in evaluation design and implementation, through training, consultation, and model evaluations of selected programs.

### *The Population of Juvenile and Adult Probation*

Very little consistent, statewide information is available on the demographics, needs, or perspectives of youth and adults in probation in California. Without this information, it is impossible to assess whether probation has changed to meet changes in the population (such as growth in the numbers of female offenders, offenders with children, and non-English speaking offenders). It is also difficult to identify which populations, whether characterized by offense or by demographics, are receiving which services. Without knowing the population served, it is difficult to know whether services provided are properly targeted or whether some groups are disproportionately served. Having consistent information on probationers also enhances accountability to the community.

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### PHASE 4. Probation Population Census

Phase 4 of the research project would build upon the survey of probation services and programs collected in phase 1. That information would be used to develop a census or snapshot of the probation population that would detail such factors as demographics, education, employment and income, prior experience in the juvenile or adult criminal justice system, services received, and perceptions of probation service. The gathered data would serve as a rich source of information for use in assessing the current status and future of probation. A statewide population survey would require considerably more resources and support from stakeholders than the administrative survey described in phase 1 and ought to be considered a long-range goal.

### *CONCLUSION*

The task force believes that through further study and continued commitment of interested stakeholders, improved probation services and governance for the benefit of all Californians will be achieved. The task force encourages continued collaborative and individual efforts on the part of counties, courts, and probation to examine, craft, and implement an enhanced model for probation. Task force members, faced with a daunting charge, worked together with respect, dedication, and enthusiasm during the almost three years of study examining the history and practices of probation in California with a commitment to improve and enhance the probation system for communities, courts, victims, and probationers. The task force recommends, when appropriate, that an advisory group be formed to continue this effort.

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# SECTION VII

## Recommendations

The Probation Services Task Force makes the following specific recommendations:

**RECOMMENDATION 1:** Probation departments must have stable and adequate funding to protect the public and ensure offender accountability and rehabilitation.

**RECOMMENDATION 2:** California should develop a new approach to probation governance that conforms to the five fundamental principles developed by the Probation Services Task Force.

**RECOMMENDATION 3:** Probation standards and guidelines should be developed and maintained to enhance the delivery of services to courts, communities, victims, and probationers.

**RECOMMENDATION 4:** Probation departments should develop and annually review mission statements with clearly defined goals and objectives.

**RECOMMENDATION 5:** Probation departments should incorporate measurable outcomes in developing goals and objectives.

**RECOMMENDATION 6:** Probation departments should develop a common statewide language to facilitate communication, delivery of services, and comparisons across jurisdictions.

**RECOMMENDATION 7:** Probation technology resources should be reconfigured and augmented to enhance statewide communication and improve operational systems, resource allocation, and capacity for evaluation.

**RECOMMENDATION 8:** Probation departments should develop assessment and classification systems and tools as part of an effective case management strategy.

**RECOMMENDATION 9:** Probation departments should establish a graduated continuum of services and sanctions to respond to the needs of each offender.

**RECOMMENDATION 10:** Prevention and early intervention efforts in appropriate cases should be an essential component of effective and meaningful probation services.

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**RECOMMENDATION 11:** Courts and counties should develop and implement partnerships and work collaboratively to ensure appropriate levels of services for adult and juvenile offenders.

**RECOMMENDATION 12:** Probation departments should adopt workload standards rather than caseload ratios.

**RECOMMENDATION 13:** Probation departments should work with courts, schools, parents, and education agencies to ensure that adult and juvenile probationers are provided with appropriate general, special, and vocational educational services.

**RECOMMENDATION 14:** Juvenile detention reforms should be developed and implemented to ensure that juveniles are appropriately detained and to reduce overcrowding in detention facilities.

**RECOMMENDATION 15:** Probation departments should consider an approach to probation that balances offender accountability, victim restoration, competency development, and community collaboration.

**RECOMMENDATION 16:** In conjunction with any change to the probation model in California, a change in name for probation should be considered to better reflect probation's function and status.

**RECOMMENDATION 17:** Counties and branches of state government should establish a body tasked with developing a specific long-term reform model and an implementation plan.